

PENAL DECREE ACT NO. 6 OF 2004

I ASSENT

{AMANI ABEID KARUME}

PRESIDENT OF ZANZIBAR

AND

CHAIRMAN OF THE REVOLUTIONARY COUNCIL

16TH AUGUST, 2004

AN ACT TO MAKE PROVISION FOR A CODE OF CRIMINAL LAW

ENACTED by the House of Representatives of Zanzibar.

GENERAL PROVISIONS

**PART I
PRELIMINARY**

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| Short title and commencement. | 1. | This Act may be cited as the Penal Decree Act and shall come into operation upon being assented by President. |
| Saving of certain laws. | 2. | Nothing in this Act shall affect: |
| | (a) | the liability, trial or punishment of a person for an offence against any other law in force in Zanzibar other than under this Act; |
| | (b) | the liability of a person to be tried or punished for an offence under the provisions of any law in force in Zanzibar relating to the jurisdiction of the local courts in respect of acts done beyond the ordinary jurisdiction of such courts; |

- (c) the power of any court to punish a person for contempt of such court;
- (d) the liability or trial of a person, or the punishment of a person under any sentence passed or to be passed, in respect of any act done or commenced before the 31st day of December, 1934;
- (e) any power of the President of Zanzibar to grant any pardon or to remit or commute in whole or in part or to respite the execution of any sentence passed or to be passed; or
- (f) any of the Decree, Statutes or Regulations for the time being in force for the government of Zanzibar's special departments.

Provided that if a person does an act which is punishable under this Act and is also punishable under another Decree, Act or Statute of any of the kind mentioned in this section, he or she shall not be punished for that act both under that Decree, Act or Statute and also under this Act.

PART II **INTERPRETATION**

General rule of construction.

3. This Act shall be interpreted in accordance with the principles of legal interpretation as propounded by the courts of common law, and expressions used in this Act shall be presumed, so far as is consistent with their context, and except as may be otherwise expressly provided, to be used with the meaning attaching to them in English criminal law and shall be construed in accordance therewith.

Interpretation.

4. In this Act, unless the context otherwise requires:

“boy” means a male person of the age of up to eighteen years, or who is not married;

“dangerous harm” means harm endangering life;

“dwelling-house” includes any building or structure or part of a building or structure which is for the time being kept by the owner or occupier for the residence therein of himself, his family or servants

or any of them, and it is immaterial that it is from time to time uninhabited; a building or structure adjacent to or occupied with a dwelling house is deemed to be part of the dwelling -house if there is a communication between such building or structure and the dwelling-house, either immediate or by means of a covered and enclosed passage leading from one to the other, but not otherwise;

“felony” means an offence which is declared by law to be a felony, or, if not declared to be a misdemeanour, is punishable, without proof of previous conviction, with death, or with imprisonment for three years or more;

“girl” means a female person of the age of up to eighteen years; or who is not married or not given birth to a child;

“grievous harm” means any harm which amounts to a maim or dangerous harm, or which seriously or permanently injures health or which is likely so to injure health, or which extends to permanent disfigurement, or to any permanent or serious injury to any external or internal organ, member or sense;

“gross indecency” means any sexual act that falls short of actual intercourse and may include masturbation and physical contact or indecent behaviour without any physical contact.

“harm” means any bodily hurt, disease or disorder whether permanent or temporary;

“hospital” means the precincts of a hospital and includes the precincts of any institution for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation;

“illicit sexual intercourse” means sexual intercourse between persons who are not spouses to each other;

“judicial proceeding” includes any proceeding had or taken in or before any court, tribunal, commission of inquiry, or person in which evidence may be taken on oath;

“knowingly” used in connection with any term denoting uttering or using, implies knowledge of the character of the thing uttered or used;

“local authority” means a local authority established under any Act;

“maim” means the destruction or permanent disabling of any external or internal organ, member or sense;

“man” means any male person of the age of eighteen years;

“misdemeanour” means any offence which is not a felony;

“money” includes bank notes, currency notes, bank drafts, cheques and other orders, warrants or requests for the payment of money;

“night” or “night time” means the interval between half past six o’clock in the evening and six o’clock in the morning;

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

“person” and “owner” and other like terms when used with reference to property include corporations of all kinds and any other association of persons capable of owning property, and also when so used include the President of Zanzibar;

“person employed in the public service” means any person holding any of the following offices or performing the duty thereof, whether as a deputy or otherwise, namely :

- (a) any civil office including the office of the President of Zanzibar, the power of appointing a person to which or of removing from which is vested in the

President of Zanzibar, the Civil Service Commissioner such other appointing authority;

- (b) any office to which a person is appointed or nominated by an Act;
- (c) any civil office, the power of appointing to which or removing from which is vested in any person or persons holding an office of any kind included in either of the two last preceding paragraphs of this definition;
- (d) any office of arbitrator or umpire in any proceeding or matter submitted to arbitration by order or with the sanction of any court, or in pursuance of any Act;

and the said term further includes :

- (i) a member of a commission of inquiry appointed under or in pursuance of any Act;
- (ii) any person employed to execute any process of a court;
- (iii) all persons belonging to the military forces of Zanzibar;
- (iv) all persons in the employment of any government department;
- (v) a person acting as a minister of religion of whatsoever denomination in so far as he performs the functions in respect of the notification of intending marriage or in respect of the solemnisation of marriage, or in respect of the making or keeping of any register or certificate of marriage, birth, baptism, death or burial, but not in any other respect;
- (vi) a person in the employ of a local authority;

“possession”

- (a) “be in possession of” or “have in possession” includes not only having in one’s own personal possession, but also knowingly having anything in

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

- (b) if there are two or more persons and any one or more of them with the knowledge and consent of the rest has or have anything in his or their custody or possession, it shall be deemed and taken to be in the custody and possession of each and all of them;

“property” includes everything animate or inanimate capable of being the subject of ownership;

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

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

“public place” or “public premises” includes any public way and building, place or conveyance to which, for the time being the public are entitled or permitted to have access either without any condition or upon condition of making any payment, and any building or place which is for the time being used for any public or religious meetings, or assembly or as an open court;

“publicly” when applied to acts done means either:

- (a) that they are so done in any public place as to be seen by any person whether such person be or not be in a public place; or
- (b) that they are so done in any place not being a public place as to be likely to be seen by any person in a public place.

“sexual abuse” means illegally sexually oriented acts done or words said in relation to any person for gratification or for any other illegal purpose;

“sexual intercourse” whether natural or unnatural, shall for the purpose of proof of a sexual offence, be deemed to be complete upon proof of penetration only not by the completion of the intercourse by the emission of seeds;

“sexual offence” means any of the offences created in parts XV and XVI of this Act;

“Special Department” means special Department established under the Zanzibar Constitution, 1984;

“stamp used for the purpose of public revenue” includes any label or stamp or device for denoting postage, provided under the Post Office Decree, and payable in respect of postal articles, and includes also adhesive postage stamps and stamps printed, embossed, or pressed or otherwise indicated on any envelope, wrapper, postcard or other article and provided under the Postal Decree;

“statute” means an Act of the House of the Representatives of Zanzibar and includes any orders, rules, regulations, by-laws or other subsidiary legislation made or passed under the authority of any statute;

“utter” includes using or dealing with and attempting to use or deal with and attempting to induce any person to use, deal with or act upon the thing in question;

“valuable security” includes any document which is the property of any person, and which is evidence of the ownership of any property or of the right to recover or receive any property and also includes a money order or postal order issued under the provisions of the Postal Decree;

“vessel” includes a ship, a boat and every other kind of vessel used in navigation either on the sea or in inland waters and includes aircraft;

“woman” means any female person of the age above eighteen years, whether married or not;

“women’s or children’s institution” means an institution for the reception and care of women or children, however described;

“wound” means any incision or puncture which divided or pierces any exterior membrane of the body, and any membrane is exterior for the purpose of this definition which can be touched without dividing or piercing any other membrane.

PART III **TERRITORIAL APPLICATION**

Extent of jurisdiction of courts.

5. The jurisdiction of the courts of Zanzibar for the purposes of this Act extends to every place within Zanzibar or within twelve nautical miles of the coast thereof measured from low water mark and offences committed on the high seas on vessels registered in Zanzibar.

Offences committed partly within and partly beyond the jurisdiction.

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

PART IV **GENERAL RULES AS TO CRIMINAL RESPONSIBILITY**

Ignorance of law.

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

Bona fide claim
of right.

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

Intention:
motive.

9.(1) Subject to the express provisions of this Act relating to negligent acts and omissions, a person is not criminally responsible for an act or omission which occurs independently of the exercise of his will, or for an event which occurs by accident.

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

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

Mistake of fact.

10.(1) A person who does or omits to do an act under an honest and reasonable, but mistaken belief in the existence of any state of things is not criminally responsible for the act or omission to any greater extent than if the real state of things had been such as he believed to exist.

(2) The operation of this rule may be excluded by the express or implied provisions of the law relating to the subject.

Presumption of
sanity.

11. Every person is presumed to be of sound mind, and to have been of sound mind at any time which comes in question, until the contrary is proved.

Insanity.

12.(1) A person is not criminally responsible for an act or omission if at the time of doing the act or making the omission he is through any disease affecting his mind incapable of understanding what he is doing, or of knowing that he ought not to do the act or make the omission.

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

Intoxication. 13.(1) Save as provided in this section intoxication shall not constitute a defence to any criminal charge.

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

(a) the state of intoxication was caused without his consent by the malicious or negligent act of another person; or

(b) the person charged was by reason of intoxication insane, temporarily or otherwise, at the time of such act or omission.

(3) Where the defence under subsection (2) is established, then in a case falling under paragraph (a) thereof the accused person shall be discharged, and in a case falling under paragraph (b) the provisions of the Criminal Procedure Act, relating to insanity shall apply.

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

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

Immature age. 14.(1) A person under the age of twelve years is not criminally responsible for any act or omission.

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

(3) A male person under the age of fourteen years is presumed to be incapable of having carnal knowledge.

Judicial officers. 15. Except as expressly provided by this Act, a judicial officer is not criminally responsible for anything done or omitted to be done by him in the exercise of his judicial functions,

although the act done is in excess of his judicial authority or although he is bound to do the act omitted to be done.

Compulsion.

16. A person is not criminally responsible for an offence if it is committed by two or more offenders, and if the act is done or omitted only because during the whole of the time in which it is being done or omitted the person is compelled to do or omit to do the act by threats on the part of the other offender or offenders instantly to kill him or do him grievous bodily harm if he refuses, but threats of future injury do not excuse any offence.

Right of self defence.

17.(1) Subject to the provision of this Act every person has the right:

- (a) to defend himself or herself or any other person against any unlawful act or assault or violence to the body; or
- (b) to defend his or her own property or any property in his or her lawful possession, custody or under his care or the property of any other person against any unlawful act of seizure or destruction or violence.

(2) In this section, the expression "property of any other person includes any property belonging to the Government or a public corporation or an employer or any property communally owned by members of the public as a cooperative society or village.

Use of force in defence.

18.(1) In exercising the right of self defence or in defence of another or defence of property, a person shall be entitled only to use reasonable force as may be necessary for that defence.

(2) Every person shall be criminally liable for any offence resulting from excessive force used in self-defence or in defence of another or in defence of property.

(3) Any person who causes the death of another as the result of excessive force used in defence shall be guilty of manslaughter.

When right of defence extends to causing death.

19.(1) The right of self defence or the defence of another or defence of property shall extend to a person who, in exercising that right, causes death or grievous harm to another

and the person so acting, acts in good faith and with an honest belief based on reasonable grounds that his or her acts is necessary for the preservation of his or her own life or limb or the life or limb of another or of property, in the circumstances where:

- (a) the lawful act is of such a nature as may reasonably cause the apprehension that his or her own death or the death of another person could be the consequence of that act; or
- (b) the lawful act is of such a nature as may be reasonably cause the apprehension that grievous harm to his or her own body or the body of another could be the consequence of the unlawful act; or
- (c) the unlawful act is with the intention of committing rape or defilement or an unnatural offence; or
- (d) the unlawful act is with the intention of kidnapping or abducting; or
- (e) the unlawful act is burglary or robbery or arson or any offence, which endangers life or property.

(2) If, in the exercise of a right of defence in accordance with this Act, the person exercising that right is in such a situation that he or she cannot effectively exercise that right without risk or harm to an innocent person or property, his or her right of defence extends to the running of that risk.

Using of force in effecting arrest.

20. Where any person is charged with a criminal offence arising out of the arrest or attempted arrest, by him of a person who forcibly resists such arrest or attempts to evade being arrested, the court shall, in considering whether the means used were necessary, or the degree of force used was reasonable, for the apprehension of such person, have regard to the gravity of the offence which had been or was being committed by such person and the circumstances in which such offence had been or was being committed by such person.

Compulsion by husband.

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

offence was committed in the presence of, and under the coercion of the husband.

Persons not to be punished twice for same offence.

22. A person cannot be punished twice either under the provisions of this Act or under the provisions of any other law for the same act or omission, except in the case where the act or omission is such that by means thereof he causes the death of another person, in which case he may be convicted of the offence of which he is guilty by reason of causing such death, notwithstanding that he has already been convicted of some other offence constituted by the act or omission.

PART V **PARTIES TO OFFENCES**

Principal offenders.

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

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

Offences committed by joint offenders in prosecution of common purpose.

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

Counselling another to commit an offence.

25.(1) When a person counsels another to commit an offence, and an offence is actually committed after such counsel by the person to whom it is given, it is immaterial whether the offence actually committed is the same as that counselled or a different one, or whether the offence is committed in the way

counselled or in a different way, provided in either case that the facts constituting the offence actually committed are a probable consequence of carrying out the counsel.

(2) In either case the person who gave the counsel is deemed to have counselled the other person to commit the offence actually committed by him.

PART VI **PUNISHMENTS**

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| Different kind of punishments. | 26. The following punishments may be inflicted by a court: |
| | (a) death; |
| | (b) imprisonment; |
| | (c) working in the community; |
| | (d) fine; |
| | (e) forfeiture; |
| | (f) payment of costs; |
| | (g) payment of compensation; |
| | (h) finding security to keep the peace and be of good behaviour, or to come up for judgement; |
| | (i) police supervision; |
| | (j) recommendation for the making of a deportation, restriction or security order under the Deportation Decree; |
| | (k) cancellation or suspension of driving licence under the Road Transport Act; |
| | (l) conditional release under the Probation of Offenders Decree; |
| | (m) an approved school order under the Approved Schools Decree; |

- (n) any other sentence provided by this or any other Decree;

General punishment for misdemeanours. 27. When in this Act no punishment is specially provided for any misdemeanour, it shall be punishable with imprisonment for a term not exceeding two years or with a fine or with both.

CRIMES

Division I – Offences against Public Order

PART VII

TREASON AND OTHER OFFENCES AGAINST THE GOVERNMENT

Treason. 28. Any person who compasses, imagines, invents, devises or intends any, act matter or theory, the compassing, imagining, inventing, devising or intending or expresses, utters, or declares such compassing, imagining, inventing, devising or intending by publishing any printing or writing or by any overt act, or does any act which, is intended to bring about or cause the removal or change of the Government of Zanzibar other than by the mode and manner provided under the Constitution of Zanzibar, is guilty of the offence termed treason and shall be liable to suffer death.

Entering Zanzibar with intent to organise a counter-revolution. 29. Any person who enters Zanzibar with the intention of organising counter-revolutionary activities against the Government or with the intention of inciting others to organise such activities is guilty of a felony and is liable to the punishment of death.

Instigating invasion. 30. Any person who instigates any foreigner to invade any part or the whole of the territory of Zanzibar with an armed force is guilty of treason, and is liable to the punishment of death.

Misprision of treason. 31. Any person who :

- (a) becomes an accessory after the fact to treason; or
- (b) knowing that any person intends to commit treason, does not give information thereof with all reasonable despatch to the President of Zanzibar,

Minister of the Government of Zanzibar or an administrative officer, Judge of the High Court of Zanzibar, Magistrate, or officer in charge of a police station, or use other reasonable endeavours to prevent the commission of the offence;

is guilty of the felony termed misprision of treason, and is liable to imprisonment for life.

Treasonable felonies.

32. Any person who forms an intention to effect any of the following purposes, that is to say:

- (a) to remove any person by force of arms from the Office of the President of Zanzibar and chairman of the Revolutionary Council or take over by force of arms the Chambers of the House of Representatives of Zanzibar with the aim of depriving the members thereof of exercising their powers and functions, or takes over or holds as hostage judicial officers or any public functionary with the aim of destabilising and rendering the discharge of governmental functions and duties under the Constitution of Zanzibar impossible;
- (b) to levy war against the Government of Zanzibar within any part of Zanzibar, or within any other country in order by force or constraint to compel the President of Zanzibar or any other arm or department of the Government of Zanzibar to change Government measures, policies, decisions or counsel, or in order to put any force or constraint upon, or in order to intimidate or overawe the legislature or legislative authority of Zanzibar;
- (c) to instigate any foreigner to make an armed invasion of any part of or the whole of Zanzibar;
- (d) to deprive the President of Zanzibar of the sovereignty of Zanzibar;
- (e) to levy war against the President of Zanzibar;

and manifests such intention by an overt act, or by publishing any printing or writing, is guilty of a felony, and is liable to imprisonment for life.

Limitations as to trial for treason, etc.

33.(1) A person cannot be tried for treason, or for any of the felonies defined in sections 31 and 32, unless the prosecution is commenced within two years after the offence is committed.

(2) Nor can a person charged with treason, or with any of such felonies, be convicted, except on his own plea of guilty, or on the evidence in open court of two witnesses at the least of one overt act of the kind of treason or felony alleged, or the evidence of one witness to one overt act, and one other witness to another overt act of the same kind of treason or felony.

(3) This section does not apply to cases in which the overt act of treason alleged is the killing of the President of Zanzibar; or a direct attempt to endanger the life or injure the person of the President of Zanzibar.

Inciting to mutiny.

34. Any person who advisedly attempts to effect any of the following purposes, that is to say:

- (a) to seduce any person serving in the military forces of Zanzibar or any member of the police force from his duty and allegiance to the Constitutional Government of Zanzibar;
- (b) to incite any such persons to commit an act of mutiny or any traitorous or mutinous act; or
- (c) to incite any such persons to make or endeavour to make a mutinous assembly;

is guilty of a felony, and is liable to imprisonment for life.

Aiding soldiers or police officers in acts of mutiny.

35. Any person who:

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

any non-commissioned officer or private of the military forces of Zanzibar or any police officer, is guilty of a misdemeanour.

Inducing soldiers or police officers to desert.

36. Any person who, by any means whatever, directly or indirectly :

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

any non-commissioned officer or private of the said military forces or any police officer, is guilty of a misdemeanour, and is liable to imprisonment for a term of not less than five years but not exceeding ten years.

Knowingly aiding prisoners of war to escape.

37. Any person who knowingly and advisedly aids an alien enemy of the People and Government of Zanzibar, being a prisoner of war in Zanzibar, whether such prisoner is confined in a prison or elsewhere, or is suffered to be at large on his parole, to escape from his prison or place of confinement, or if he is at large on his parole, to escape from Zanzibar, is guilty of a felony, and is liable to imprisonment for life.

Negligently permitting prisoners of war to escape.

38. Any person who negligently and unlawfully permits the escape of any such person as is mentioned in section 37, is guilty of a misdemeanour.

Definition of overt act.

39. In the case of any of the offences defined in this chapter, when the manifestation by an overt act of an intention to effect any purpose is an element of the offence, every act of conspiring with any person to effect that purpose, and every act done in furtherance of the purpose by any of the persons conspiring, is deemed to be an overt act manifesting the intention.

Unlawful oaths to commit capital offences.

40. Any person who:

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

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

is guilty of a felony, and is liable to imprisonment for life.

Other unlawful oaths to commit offences.

41. Any person who:

- (a) administers, or is present at and consents to the administering of, any oath or engagement in the nature of an oath, purporting to bind the person who takes it to act in any ways following, that is to say:
 - (i) to engage in any mutinous or seditious enterprise;
 - (ii) to commit any offence not punishable with death;
 - (iii) to disturb the public peace;
 - (iv) to be a member of any association, society or confederacy, formed for the purpose of doing any such act as aforesaid;
 - (v) to obey the orders or commands of any committee or body of men not lawfully constituted, or of any leader or commander or other person not having authority by law for the purpose;
 - (vi) not to inform or give evidence against any associate, confederate or other person;
 - (vii) not to reveal or discover any unlawful association, society or confederacy, or any illegal act done or to be done, or any illegal oath or engagement that may have been administered or tendered to or taken by himself or any other person, or the import of any such oath or engagement; or
- (b) takes any such oath or engagement, not being compelled to do so, is guilty of a felony, and is liable to imprisonment for a term not exceeding seven years.

Compulsion how far a defence.

42. A person who takes any such oath or engagement as is mentioned in sections 40 and 41 cannot set up as a defence that he was compelled to do so, unless within fourteen days after taking it, or, if he is prevented by actual force or sickness, within fourteen days after the termination of such prevention, he declares by information on oath before a magistrate, or, if he is on actual service in the military forces of Zanzibar, or in the police forces, either by such information or by information to his commanding officers, the whole of what he knows concerning the matter, including the person or persons by whom and in whose presence, and the place where, and the time when, the oath or engagement was administered or taken.

Unlawful drilling.

43.(1) Any person who:

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

is guilty of a felony, and is liable to imprisonment for a term not exceeding seven years.

(2) Any person who, at any meeting or assembly held without the permission of the President of Zanzibar, is trained or drilled to the use of arms or the practice of military exercises, movements, or evolutions, or who is present at any such meeting or assembly for the purpose of being so trained or drilled, is guilty of a misdemeanour.

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

44.(1) Any person who publishes or reproduces any false statement, rumour or report which is likely to cause fear and alarm to the public or to disturb the public peace, is guilty of a misdemeanour.

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

Incitement to violence.

45.(1) Any person who, without lawful excuse, prints, publishes or to any assembly makes any statements indicating or implying that it would be incumbent or desirable:

- (a) to do any act calculated to bring death or physically injury to any person or to any class or community of person;
- (b) to do any act calculated to lead to destruction or damage to any property;

is guilty of a misdemeanour and is liable to imprisonment for three years.

(2) A person shall not be prosecuted for an offence under this section without the written consent of the Director of Public Prosecutions.

(3) For the purposes of this section an assembly means a gathering of three or more persons.

PART VIII

OFFENCES AFFECTING RELATIONS WITH FOREIGN STATES AND EXTERNAL TRANQUILITY

Defamation.

46. Any person who, without such justification or excuse as would be sufficient in the case of the defamation of a private person, publishes anything intended to be read, or any sign or visible representation, tending to degrade, revile or expose to hatred or contempt any foreign prince, potentate, ambassador or other foreign dignitary with intent to disturb peace and friendship between Zanzibar and the country to which such prince, potentate, ambassador or dignitary belongs, is guilty of a misdemeanour.

Foreign enlistment.

47. Any person commits a misdemeanour who does any of the following acts without the licence of the President of Zanzibar under the Public Seal, or signified by regulations or appropriate administrative instructions, that is to say :

- (a) who prepares or fits out any naval or military expedition to proceed against the dominions of any friendly state, or is engaged in such preparation or fitting-out, or assists therein, or is employed in any capacity in such expedition;

- (b) who, being a citizen of Zanzibar, accepts or agrees to accept any commission or engagement in the military or naval service of any foreign state at war with any friendly state, or, whether a citizen of Zanzibar or not, induces any other person to accept or agree to accept any commission or engagement in the military or naval service of any such foreign state as aforesaid;
- (c) who, being a citizen of Zanzibar, quits or goes on board any vessel with a view of quitting Zanzibar, with intent to accept any commission or engagement in the military or naval service of any foreign state at war with a friendly state, or, whether a citizen of Zanzibar or not, induces another person to quit or to go on board any vessel with a view to quitting Zanzibar with the like intent;
- (d) who, being the master or owner of a vessel, knowingly either takes on board, or engages to take on board, or has on board such vessel any illegally enlisted person; or
- (e) who, with intent or knowledge, or having reasonable cause to believe that the same will be employed in the military or naval service of any foreign state at war with any friendly state builds, agrees to build, causes to be built, equips, despatches, or causes or allows to be despatched, any vessel or issues or delivers any commission for any vessel;

Provided that a person building, causing to be built, or equipping a vessel in any of the cases aforesaid, in pursuance of a contract made before the commencement of such war as aforesaid, is not liable to any of the penalties specified in this section in respect of such building or equipping if:

- (i) upon proclamation of neutrality being issued by the President of Zanzibar he forthwith gives notice to the President of Zanzibar or the Secretary to the Government of Zanzibar that he is so building, causing to be built, or equipping such vessel, and furnishes such particulars of the contract

and of any matters relating to, or done, or to be done under the contract as may be required by the President of Zanzibar or the Secretary to the Government of Zanzibar; and

- (ii) he gives such security, and takes and permits to be taken such other measures, if any, as the President of Zanzibar or the Secretary to the Government of Zanzibar may prescribe for ensuring that such vessel shall not be despatched, delivered, or removed without the licence of the President of Zanzibar until the termination of such war as aforesaid.

Piracy.

48.(1) Any person who:

- (a) does any unlawful act of violence against a ship or vessel registered in Zanzibar or anywhere else or against any person or property on board that ship or vessel; or
- (b) does any unlawful act of violence against any ship or vessel or against any person or property on board that ship or vessel; or
- (c) voluntarily participates in the operation of a ship, vessel or aircraft for the purpose of doing any act referred to in paragraph (a) or (b);

shall be guilty of the offence termed "piracy" and shall be liable on conviction to imprisonment for life.

(2) No prosecution under this section shall be commenced without the consent of the Director of Public Prosecutions.

PART IX
UNLAWFUL ASSEMBLIES, RIOTS AND OTHER OFFENCES
AGAINST PUBLIC TRANQUILITY

Definition of society and unlawful society.

49.(1) A society includes any combination of ten or more persons whether the society be known by name or not.

- (2) A society is an unlawful society :
 - (a) if formed for any of the following purposes :
 - (i) levying war or encouraging or assisting any person to levy war on the Government or inhabitants of any part of Zanzibar;
 - (ii) killing or injuring or inciting to the killing or injuring of any person;
 - (iii) destroying or injuring or inciting to the destruction or injuring of any property;
 - (iv) subverting or promoting the subversion of the Government or of its officials;
 - (v) committing or inciting to acts of violence or intimidation;
 - (vi) interfering with, or resisting, or inciting to interference with or resistance to the administration of the law; or
 - (vii) disturbing or inciting to the disturbance of peace and order in any part of Zanzibar; or
 - (b) if declared by an order of the President of Zanzibar to be a society dangerous to the good government of Zanzibar.

Managing an unlawful society.

50. Any person who manages or assists in the management of an unlawful society is guilty of a felony and is liable to imprisonment for a term not exceeding seven years.

Provisions relating to prosecution of offences under sections 50.

51.(1) A prosecution for an offence under section 50 shall not be instituted except with the consent of the Director of Public Prosecutions of Zanzibar.

Provided that a person charged with such an offence may be arrested, or a warrant for his arrest may be issued and executed, and any such person may be remanded in custody or on bail, notwithstanding that the consent of the Director of Public Prosecutions of Zanzibar to the institution of a prosecution for the offence has not been obtained, but no further or other proceedings shall be taken until that consent has been obtained.

(2) In any prosecution for an offence under sections 50 it shall not be necessary to prove that the society consisted of ten or more members; but it shall be sufficient to prove the existence of a combination of persons, and the onus shall then rest with the accused to prove that the number of members of such combination did not amount to ten.

(3) Any person who attends a meeting of an unlawful society shall be presumed, until and unless the contrary is proved, to be a member of the society.

(4) Any person who has in possession or custody or under his control any of the insignia, banners, arms, books, papers, documents or other property belonging to an unlawful society, or wears any of the insignia, or is marked with any mark of the society, shall be presumed, unless the contrary is proved, to be a member of the society.

Powers of entry,
etc.

52.(1) Any peace officer, and any police officer authorised in writing by a peace officer, may enter with or without assistance any house or building or into any place in which he has reason to believe that a meeting of an unlawful society, or of persons who are members of an unlawful society is being held, and to arrest or cause to be arrested all persons found therein and to search such house, building, or place, and seize or cause to be seized all insignia, banners, arms, books, papers, documents and other property which he may have reasonable cause to believe to belong to any unlawful society, or to be in any way connected with the purpose of the meeting.

(2) For the purposes of this section the expression "peace officer" means any magistrate or any police officer not below the rank of Superintendent:

Declaration as
to unlawful
society.

53.(1) When a society is declared to be an unlawful society by an order of the President of Zanzibar, the following consequence shall ensue:

- (a) the property of the society within Zanzibar shall forthwith vest in an officer appointed by the President of Zanzibar;
- (b) the officer appointed by the President of Zanzibar shall proceed and wind up the affairs of the society and, after satisfying and providing for all debts and liabilities of the society and the cost of the winding

up, if there shall then be any surplus assets, shall prepare and submit to the President of Zanzibar a scheme for the application of such surplus assets;

- (c) such scheme, when submitted for approval, may be amended by the President of Zanzibar in such way as he shall think proper in the circumstances of the case;
- (d) the approval of the President of Zanzibar to such scheme shall be denoted by the indorsement thereon of a memorandum of such approval signed by the President of Zanzibar and, upon this being done, the surplus assets, the subject of the scheme shall be held by such officer upon the terms and to the purposes thereby prescribed;
- (e) for the purpose of the winding up the officer appointed by the President of Zanzibar shall have all the powers vested in the Official Assignee for the purpose of the discovering of the property of a debtor and the realisation thereof.

(2) The President of Zanzibar may, for the purpose of enabling a society to wind up its own affairs, suspend the operation of this section for such period as to him shall seem expedient.

(3) The provisions of subsection (1) shall not apply to any property seized at any time under section 52.

Forfeiture.

54. Subject to the provisions of section 53 the insignia, banners, arms, books, papers, documents and other property belonging to an unlawful society shall be forfeited to the Government of Zanzibar.

Definition of unlawful assembly and riot.

55.(1) When three or more persons assemble with intent to commit an offence, or, being assembled with intent to carry out some common purpose, conduct themselves in such a manner as to cause persons in the neighbourhood reasonably to fear that the persons so assembled will commit a breach of the peace, or will by such assembly needlessly and without any reasonable occasion provoke other persons to commit a breach of the peace, they are an unlawful assembly.

(2) It is immaterial that the original assembling was

lawful if, being assembled, they conduct themselves with a common purpose in such a manner as aforesaid.

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

Punishment of unlawful assembly.

56. Any person who takes part in an unlawful assembly is guilty of a misdemeanour, and is liable to imprisonment for a term not exceeding one year.

Punishment of riot.

57. Any person who takes part in a riot is guilty of a misdemeanour.

Making proclamation for rioters to disperse.

58. Any magistrate or, in his absence, any superior police officer or any commissioned officer in the military forces of Zanzibar in whose view twelve or more persons are riotously assembled, or who apprehends that a riot is about to be committed by twelve or more persons assembled within his view, may make or cause to be made a proclamation in the name of the President of Zanzibar, in such form as he thinks fit, commanding the rioters or persons so assembled to disperse peaceably.

Dispersion of rioters after proclamation made.

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

Rioting after proclamation.

60. If proclamation is made, commanding the person engaged in a riot, or assembled with the purpose of committing a riot, to disperse, every person who, at or after the expiration of a reasonable time from the making of such proclamation, takes or continues to take part in the riot or assembly, is guilty of a felony, and is liable to imprisonment for a term not exceeding five years.

Preventing or obstructing the making of proclamation.

61. Any person who forcibly prevents or obstructs the making of such proclamation as is in section 58 mentioned, is guilty of a felony, and is liable to imprisonment for ten years; and if the making of the proclamation is so prevented, every person who, knowing that it has been so prevented, takes or continues to take part in the riot or assembly, is liable to imprisonment for a term not exceeding five years.

Rioters demolishing building, etc.

62. Any persons, who, being riotously assembled together unlawfully pull down or destroy, or begin to pull down or destroy any building, railway, machinery or structures are guilty of a felony, and each of them is liable to imprisonment for life.

Rioters injuring buildings, etc.

63. Any persons, who, being riotously assembled together unlawfully damage any of the things in section 62 mentioned, are guilty of a felony, and each of them is liable to imprisonment for a term not exceeding seven years.

Riotously interfering with railway, vehicle, etc.

64. All persons are guilty of misdemeanour who, being riotously assembled, unlawfully and with force prevent, hinder or obstruct the loading or unloading of any vehicle or vessel, or the starting or transit of any vehicle, or the sailing or navigating of any vessel, or unlawfully and with force board any vehicle or vessel with intent so to do.

Going armed in public.

65. Any person who goes armed in public without lawful occasion in such a manner as to cause terror to any person is guilty of a misdemeanour, and his arms may be forfeited.

Forcible entry.

66.(1) Any person who, in order to take possession thereof, enters on any land or tenements in a violent manner, whether such violence consists in actual force applied to any other person or in threats or in breaking open any house or in collecting an unusual number of people, is guilty of the misdemeanour termed "forcible entry".

(2) It is immaterial whether he is entitled to enter on the land or not, provided that a person who enters upon land or tenements of his own, but which are in the custody of his servant or bailiff, does not commit the offence of forcible entry.

Forcible detainer.

67. Any person who, being in actual possession of land without colour of right, holds possession of it, in a manner likely to cause a breach of the peace or reasonable

apprehension of a breach of the peace, against a person entitled by law to the possession of the land is guilty of the misdemeanour termed "forcible detainer".

Affray.

68. Any person who takes part in a fight in a public place is guilty of a misdemeanour, and is liable to imprisonment for a term not exceeding six months or to a fine not exceeding five hundred thousand shillings.

Challenge to fight a duel.

69. Any person who challenges another to fight a duel, or attempts to provoke another to fight a duel, or attempts to provoke any person to challenge another to fight a duel, is guilty of a misdemeanour.

Threatening violence.

70.(1) Any person who :

- (a) with intent to intimidate or annoy any person threatens to break or injure a dwelling house; or
- (b) with intent to alarm any person in a dwelling house, discharges loaded firearms or commits any other breach of the peace,

is guilty of a misdemeanour, and is liable to imprisonment for a term not exceeding one year.

(2) If the offence is committed in the night the offender is liable to imprisonment for a term not exceeding two years.

Watching and besetting.

71.(1) Any person who watches or besets:

- (a) any premises or the approaches to such premises with a view to preventing any other person from doing any act which such other person has a legal right to do thereat; or
- (b) the house or other place where any other person carried on business or happens to be, or the approaches to such house or place with a view to preventing such other person from doing or compelling him to do any act which such other person has a legal right to do or abstain from doing.

is guilty of a misdemeanour and is liable to imprisonment for six months or to a fine not exceeding five hundred thousand shillings or to both such imprisonment and fine;

Provided that the provision of this section shall not apply to any watching or besetting which is lawful under the provisions of any law relating to trade unions or trade disputes.

(2) A person shall not be prosecuted for an offence under this section without the written consent of the Director of Public Prosecutions.

Intimidation.

72.(1) Any person who wrongfully and without legal authority intimidates any other person with a view to compelling such other person:

- (a) to abstain from doing any act which he or she has a legal right to do; or
- (b) to do any act which he or she has a legal right to abstain from doing;

is guilty of misdemeanour and is liable on conviction to imprisonment for one year or fine not exceeding one hundred thousand shillings.

(2) In this section:

“to intimidate” means to cause in the mind of a person a reasonable apprehension of injury to him or her or to any member of his or her family or to any of his or her dependants or of violence or damage to any person or property;

“injury” includes injury to a person in respect of his or her business, occupation, employment, or other source of income and also includes any actionable wrong.

(3) A person shall not be prosecuted for an offence under this section without the consent of the Director of Public Prosecutions.

Assembly for the purpose of smuggling.

73. Any persons who assemble together, to the number of two or more, for the purpose of unshipping, carrying, or concealing any goods subject to customs duty and liable to forfeiture under any law relating to the customs, are guilty of a misdemeanour, and each of them is liable to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding six months.

Offensive weapons at public meetings, etc., and conduct conclusive to breach of peace
Offensive weapons at public meetings, etc., and conduct conclusive to breach of peace.

74.(1) Any person who :

- (a) while present at any public meeting or on the occasion of any public procession has with him any offensive weapon, otherwise than in pursuance of lawful authority or with the permission of the Commissioner of Police; or
- (b) in any public place or at any public meeting uses threatening, abusive or insulting words or behaviour with intent to provoke a breach of the peace or whereby a breach of the peace is likely to be occasioned,

is guilty of a misdemeanour and is liable to imprisonment for a term not exceeding three months or to a fine not exceeding two hundred and fifty thousand shillings, or to both such imprisonments and fine.

(2) For the purposes of paragraph (a) of subsection (1), a person shall not be deemed to be acting in pursuance of lawful authority unless he is acting in his capacity as a police officer or under the directions of the Commissioner of Police.

(3) In this section:

- (a) “public meeting” includes any meeting in a public place and any meeting which the public or any section thereof are permitted to attend, whether on payment or otherwise, and for the purpose of this definition a “meeting” means a meeting held for the purpose of the discussion of matters of public interest or for the purpose of the expression of views on such matters;
- (b) “public procession” means a procession in a public place.

Possession of
offensive
weapons
without lawful
authority.

75.(1) Any person who imports, manufactures, sells, offers or exposes for sale or wears or carries any offensive weapon without lawful authority the proof whereof shall lie upon him shall be guilty of a misdemeanour.

(2) For the purposes of this section "offensive weapon" means any article made or adapted for causing injury to the person or intended by the person having it with him for such use by him, and without prejudice to the generality of the foregoing includes the following articles and any part thereof namely any bayonet, sword, swordstick, dagger, knife, spear or axe, but does not include the following: -

- (a) any clasp-knife having a blade not more than four inches in length where such clasp-knife is not so constructed as to be convertible by means of a spring or otherwise into a dagger or knife with a fixed blade; or
- (b) any article which is primarily designed for use in a profession, craft or business or for domestic use and which is imported, manufactured or sold for such use or which is worn or carried by a person exercising or carrying on the profession craft or business for which the article worn or carried by such person is primarily designed or which is worn or carried for domestic use only; or
- (c) any article while it is worn or carried by any person within his house or the curtilage thereof or on any vessel.

(3) Where any person is convicted of an offence under the provisions of this section or having been charged with an offence thereunder such charge is dismissed under the provisions of section of the Criminal Procedure, court may make an order for the forfeiture of the offensive weapon in respect of which the offence was committed and for destruction or other disposal thereof.

(4)(a) The provisions of this section shall apply in such area or place and to such extent as the President of Zanzibar may by order direct.

(b) The President of Zanzibar may by order exempt any person or class of persons from the application of all or any

of the provisions of this section and such exemption may be for any period of time or for any particular occasion.

Division II
Offences against the Administration of Lawful Authority

PART X
CORRUPTION, ABUSE OF OFFICE AND OTHER ECONOMIC OFFENCES

Official
corruption.

76.(1) Any person who:

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

shall be guilty of an offence.

(2) Where in consequence of investigation or of a search or investigation of a bank account pursuant to any relevant laws, any public officer is found to be or to have been in possession of any property or is found to have received the benefit of any services, which he may reasonably be suspected of having corruptly acquired or received when he held public office, such public officer may be charged with having had in his possession property reasonably suspected or having been corruptly acquired or as the case may be., having received the benefit of service reasonably suspected of having been corruptly received, and if such public officer fails to satisfy the court that he did not corruptly receive the benefit of service he shall be guilty of an offence.

Extortion by public officers.

77. Any person who, being employed in the public service, takes, or accepts from any person for the performance of his duty as such officer, any reward beyond his proper pay and emoluments, or any promise of such reward, is guilty of an offence.

Public officer receiving property to show favour.

78. Any person who, being employed in the public service, receives any property or benefit of any kind for himself, on the understanding, express or implied, that he shall favour the person giving the property or conferring the benefit, or any one in whom that person is interested, in any transaction then pending, or likely to take place, between the person giving the property or conferring the benefit, or any one in whom he is interested, and any person employed in the public service, is guilty of an offence.

Officers charged with administration of property of a special character or with special duties.

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

False claims by officials.

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

Abuse of office.

81.(1) Any person who, being employed in the public service, does or directs to be done, in abuse of the authority of his office, any arbitrary act prejudicial to the rights of another is guilty of an offence.

(2) If the act is done or directed to be done for purposes of gain he is guilty of a felony, and is liable to imprisonment for a term not exceeding three years.

(3) A prosecution for any offence under this or either of the two last preceding sections shall not be instituted except by or with the sanction of the Director of Public Prosecutions.

False certificates by public officers.

82. Any person who, being authorised or required by law to give any certificate touching on any matter by virtue whereof the rights of any person may be prejudicially affected, gives a certificate which is, to his knowledge, false in any material particular is guilty of an offence.

Unauthorised administration of oaths.

83. Any person who administers an oath, or takes a solemn declaration or affirmation or affidavit, touching any matter with respect to which he has not by law any authority to do so is guilty of an offence:

Provided that this section shall not apply to an oath, declaration, affirmation or affidavit administered by or taken before a magistrate in any matter relating to the preservation of the peace or the punishment of offences or relating to inquiries respecting sudden deaths, nor to an oath, declaration, affirmation, or affidavit administered or taken for some purpose which is lawful under the laws of another country, or for the purpose of giving validity to an instrument in writing which is intended to be used in another country.

False assumption of authority.

84. Any person who:

- (a) not being a judicial officer, assumes to act as a judicial officer;
- (b) without authority assumes to act as a person having authority by law to administer an oath or to take a solemn declaration or affirmation or affidavit or to do any other act of a public nature which can only be done by persons authorised by law to do so; or
- (c) represents himself to be a person authorised by law to sign a document testifying to the contents of any register or record kept by lawful authority, or testifying to any fact or event, and signs such document as being so authorised, when he is not, and knows that he is not, in fact, so authorised;

is guilty of an offence.

Personating
public officers.

85. Any person who :

- (a) personates any person employed in the public service on an occasion when the latter is required to do any act or attend in any place by virtue of his employment; or
- (b) falsely represents himself to be a person employed in the public service, and assumes to do any act or attend in any place for the purpose of doing any act by virtue of such employment;

is guilty of an offence.

Threat of injury
to persons
employed in
public service.

86. Whoever holds out any threat of injury to any person employed in the public service, or to any person in whom he believes that person employed in the public service to be interested, for the purpose of inducing that person employed in the public service to do any act, or to forbear or delay to do any act connected with the exercise of the public functions of such person employed in the public service, is guilty of an offence.

Penalty.

87. Any person who is guilty of an offence under Part X or under sections 113, 316 and 317 of this Act shall be liable on conviction to imprisonment for a term exceeding three years but not exceeding ten years or to a fine exceeding fifty thousand shillings but not exceeding one hundred and fifty thousand shillings or to both such imprisonment and fine.

Forfeiture.

88.(1) In addition to any penalty which may be imposed on conviction of any such offences as provided under Part X or under sections 113, 316 and 317, the court shall order the forfeiture to the Government of any property which has passed in connection with the commission of the offence, or if such property cannot be forfeited or cannot be found, of such sum as the court shall assess as the value of the property.

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

Consent of
Director of
Public
Prosecutions.

89. A prosecution of any offence under Part X or under sections 113, 316 and 317 of this Act shall not be instituted except by or with the sanction in writing of the Director of Public Prosecutions.

Special power of investigation.

90.(1) Notwithstanding any provision in any other law, the Director of Public Prosecutions may if he considers that any evidence of the commission of an offence under this Act by any person is likely to be found in any bank account relating to such person, his wife or child or any person reasonably believed by the Director of Public Prosecutions to be a trustee or agent of such person authorise in writing any police officer above the rank of Sub-Inspector or other authorised person to investigate such bank account and such officer or authorised person may take copies of any relevant entry in any such account.

(2) The Director of Public Prosecutions may by writing authorise any police officer or other authorised person, if it is reasonably suspected that such person is in possession of property corruptly acquired or to search any premises, vessel, boat, aircraft or other vehicle whatsoever, in or upon which there is reason to suspect that any property corruptly acquired has been placed, deposited or concealed.

(3) Any person who hinders any police officer or other authorised person to make such investigation or search shall be guilty of an offence and shall on conviction be liable to be sent to an Educational Centre for a period of two years or to a fine of twenty thousand shillings or to both such imprisonment and fine.

Minister to create offences.

91. The Minister responsible for Legal Affairs may by order published in the Gazette, and with the prior approval of the House of Representatives create certain offences to be offences under this Part X of the Act and such offence shall not be removed from the list except by an Act of the House of Representatives.

PART XI **OFFENCES RELATING TO THE ADMINISTRATION OF** **JUSTICE**

Perjury and subornation of perjury.

92.(1) Any person, who in any judicial proceeding, or for the purpose of instituting any judicial proceeding, knowingly gives false testimony touching any matter which is material to any question then depending in that proceeding or intended to be raised in that proceeding, is guilty of the misdemeanour termed "perjury".

(2) For the purposes of this section:

- (a) it is immaterial whether the testimony is given on oath or under any other sanction authorised by law;
- (b) the forms and ceremonies used in administering the oath or in otherwise binding the person giving the testimony to speak the truth are immaterial, if he assents to the forms and ceremonies actually used;
- (c) it is immaterial whether the false testimony is given orally or in writing;
- (d) it is immaterial whether the court or tribunal is properly constituted, or is held in the proper place, or not, if it actually acts as a court or tribunal in the proceeding in which the testimony is given;
- (e) it is immaterial whether the person who gives the testimony is a competent witness or not, or whether the testimony is admissible in the proceeding or not.

(3) Any person who aids, abets, counsels, procures, or suborns another person to commit perjury is guilty of the misdemeanour termed “subornation of perjury”.

False statement by interpreters.

93. If any official interpreter of any court in any judicial proceeding, or any person, lawfully sworn as an interpreter in a judicial proceeding, wilfully makes a statement material in such proceeding which he knows to be false, or does not believe to be true, he shall be guilty of perjury.

Punishment of perjury and subornation of perjury.

94. Any person who commits perjury or suborns perjury is liable to imprisonment for a term not exceeding seven years.

Evidence on charge of perjury and subornation of perjury.

95. A person cannot be convicted of committing perjury or subornation of perjury solely upon the evidence of one witness as to the falsity of any statement alleged to be false unless supported by document.

Fabricating evidence.

96. Any person who, with intent to mislead any tribunal in any judicial proceeding :

(a) fabricates evidence by any means other than perjury or subornation of perjury; or

(b) knowingly makes use of such fabricated evidence;

is guilty of a misdemeanour, and is liable to imprisonment for a term not exceeding seven years.

False swearing.

97. Any person who swears falsely or makes a false affirmation or declaration before any person authorised to administer an oath or take a declaration upon a matter of public concern under such circumstances that the false swearing or declaration if falsely committed in a judicial proceeding would have amounted to perjury, is guilty of a misdemeanour.

Deceiving witnesses.

98. Any person who practices any fraud or deceit, or knowingly makes or exhibits any false statement, representation, token, or writing to any person called or to be called as a witness in any judicial proceeding, with intent to affect the testimony of such person as a witness, is guilty of a misdemeanour.

Destroying evidence.

99. Any person who, knowing that any book, document, or thing of any kind whatsoever, is or may be required in evidence in a judicial proceeding wilfully removes or destroys it or renders it illegible or undecipherable or incapable of identification, with intent thereby to prevent it from being used in evidence, is guilty of a misdemeanour.

Conspiracy to defeat justice and interference with witnesses.

100. Any person commits a misdemeanour who :

(a) conspires with any other person to accuse any person falsely of any crime or to do anything to obstruct, prevent, pervert, or defeat the course of justice;

(b) in order to obstruct the due course of justice, dissuades, hinders or prevents any person lawfully bound to appear and give evidence as a witness from so appearing and giving evidence, or endeavours to do so; or

(c) obstructs or in any way interferes with or knowingly prevents the execution of any legal process, civil or criminal.

Compounding felonies.

101.(1) Any person who asks, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself or any other person upon any agreement or understanding that he will compound or conceal a felony, or will abstain from, discontinue, or delay a prosecution for a felony, or will withhold any evidence thereof, is guilty of a misdemeanour.

(2) When any person is convicted of an offence under this section, the court may, in addition to or in lieu of, any penalty which may be imposed, order the forfeiture to the Government of Zanzibar of any property which has passed in connection with the commission of the offence, or, if such property cannot be forfeited or cannot be found, of such sum as the court shall assess as the value of such property.

(3) Any property or sum so forfeited shall be dealt with in such manner as the President of Zanzibar may direct.

(4) Payment of any sum so ordered to be forfeited may be enforced in the same manner and subject to the same incidents as a fine.

Compounding penal actions.

102.(1) Any person who, having brought, or under pretence of bringing, an action against another person upon a penal Act or Statute in order to obtain from him a penalty for any offence committed or alleged to have been committed by him, compounds the action without the order or consent of the court in which the action is brought or is to be brought, is guilty of misdemeanour.

(2) When any person is convicted of an offence under this section, the court may, in addition to or in lieu of, any penalty which may be imposed, order the forfeiture to the Government of Zanzibar of any property which has passed in connection with the commission of the offence, or, if such property cannot be forfeited or cannot be found, of such sum as the court shall assess as the value of such property.

(3) Any property or sum so forfeited shall be dealt with in such manner as the President of Zanzibar may direct.

(4) Payment of any sum so ordered to be forfeited may be enforced in the same manner and subject to the same incidents as a fine.

Advertisement
for stolen
property.

103. Any person who :
- (a) publicly offers a reward for the return of any property which has been stolen or lost, and in the offer makes use of any words purporting that no questions will be asked, or that the person producing such property will not be seized or molested;
 - (b) publicly offers to return to any person who may have brought or advanced money by way of loan upon any stolen or lost property the money so paid or advanced, or any other sum of money or reward for the return of such property; or
 - (c) prints or publishes any such offer,
- is guilty of a misdemeanour.

Offences
relating to
judicial
proceedings.

- 104.(1) Any person who :
- (a) within the premises in which any judicial proceeding is being had or taken, or within the precincts of the same, shows disrespect, in speech or manner, to or with reference to such proceeding, or any person before whom such proceeding, or any person before whom such proceeding is being had or taken;
 - (b) having being called upon to give evidence in a judicial proceeding fails to attend, or, having attended, refuses to be sworn or to make an affirmation, or having being sworn or affirmed, refuses without lawful excuse to answer a question or to produce a document, or remains in the room in which such proceeding is being had or taken, after the witnesses have been ordered to leave such room;
 - (c) causes an obstruction or disturbance in the course of a judicial proceeding;
 - (d) while a judicial proceeding is pending, makes use of any speech or writing, misrepresenting such proceeding, or capable of prejudicing any person in favour of or against any parties to such

proceeding, or calculated to lower the authority of any person before whom such proceeding is being had or taken;

- (e) publishes a report of the evidence taken in any judicial proceeding which has been directed to be held in private;
- (f) attempts wrongfully to interfere with or influence a witness in a judicial proceeding either before or after he has given evidence, in connection with such evidence;
- (g) dismisses a servant because he has given evidence on behalf of a certain party to a judicial proceeding;
- (h) retakes possession of land from any person who has recently obtained possession by a writ of court; or
- (i) wrongfully retakes possession of any child from any person who has obtained the custody of such child under an order of the court; or
- (j) having the means to pay any sums by way of compensation or costs or otherwise in civil or criminal proceedings awarded against him or her by any court, wrongfully refuses or neglects after due notice to make such payment in accordance with any order for payment whether by installments or otherwise.
- (k) commits any other act of intentional disrespect to any judicial proceeding, or to any person before whom such proceeding is being had or taken;

is guilty of a misdemeanour, and is liable to imprisonment for a term not exceeding three months.

(2) When any offence against paragraphs (a), (b), (c), (d) or (i) of subsection (1) is committed in view of the court, the court may cause the offender to be detained in custody, and at any time before the rising of the court on the same day may take cognisance of the offence and sentence the offender to a fine not exceeding one hundred thousand shillings or in default

of payment to imprisonment for a term not exceeding one month.

(3) The provisions of this section shall be deemed to be in addition to and not in derogation from the power of the High Court, to punish for contempt of court.

(4) Paragraph (b) of subsection (1) shall have effect in relation to proceedings in a Primary Court in which evidence is not given on oath or affirmation as if the references to a person having been sworn or affirmed included a reference to a person having been required by the court to give evidence in those proceedings.

PART XII
RESCUES, ESCAPES AND OBSTRUCTING OFFICERS OF
COURT OF LAW

Rescue.

105.(1) Any person, who by force rescues or attempts to rescue from lawful custody any other person :

(a) is, if such last named person is under sentence of death or imprisonment for life or charged with an offence punishable with death or imprisonment for life, guilty of a felony, and is liable to imprisonment for life;

(b) is, if such other person is imprisoned on a charge or under sentence for any offence other than those specified above, guilty of a felony, and is liable to imprisonment for a term not exceeding seven years; and

(c) is, in any other case, guilty of a misdemeanour.

(2) If the person rescued is in the custody of a private person, the offender must have notice of the fact that the person rescued is in such custody.

Escape from
lawful custody.

106. Any person who, being in lawful custody, escapes from such custody is guilty of a felony and shall on conviction be liable to imprisonment for a term equivalent to twice the length of period which the person was serving while in lawful custody. The sentence in respect of the offence of escaping from lawful custody shall commence after the person completes serving the

original period for which he was sentenced before he escaped from lawful custody.

Aiding prisoners to escape.

107. Any person who :

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

is guilty of a felony, and is liable to imprisonment for a term not exceeding seven years.

Escape from confinement or custody negligently suffered by public servant.

108. Any person who, being a public servant legally bound as such public servant to keep in confinement any person charged with or convicted of any offence or lawfully committed to custody, negligently or wilfully suffers such person to escape from confinement, shall be liable on conviction to imprisonment for a term not exceeding two years or to a fine of not less than five hundred thousand shillings or to both such imprisonment and fine.

Removal, etc., of property under lawful seizure.

109. Any person who, when any property has been attached or taken under the process or authority of any court, knowingly, and with intent to hinder or defeat the attachment or process, receives, removes, retains, conceals, or disposes of such property is guilty of a felony, and is liable to imprisonment for a term not exceeding three years.

Obstructing court officers.

110. Any person who:

- (a) wilfully obstructs, or knowingly prevents or in any way interferes with or resists the service upon himself or herself or any other person of any summons, notice, order, warrant or other process issued by a court for service on himself or herself or such other person, as the case may be ; or
- (b) wilfully obstructs or knowingly prevents or in any way interferes with or resists the execution of any summons, notice, order, warrant or other process issued by a court or any person lawfully charged with the execution thereof; or

- (c) wilfully delays the execution of any summons, notice, order, warrant or other process issued by a court;
- (d) absconds in order to avoid being served with any summons, notice, order, warrant or other process issued by a court;

is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding one year.

PART XIII
MISCELLANEOUS OFFENCES AGAINST PUBLIC
AUTHORITY

Frauds and breaches of trust by persons employed in the public service.

111. Any person employed in the public service who, in the discharge of the duties of his office, commits any fraud or breach of trust affecting the public, whether such fraud or breach of trust would have been criminal or not if committed against a private person, is guilty of a misdemeanour.

Neglect of official duty.

112. Every person employed in the public service who wilfully neglects to perform any duty which he is bound either by common law or by statute or Act to perform, provided that the discharge of such duty is not attended with greater danger than a man of ordinary courage and activity might be expected to encounter is guilty of a misdemeanour.

Causing loss to Government or Public Institutions.

113.(1) Any person who, being an employee, officer or member of a public institution by any wilful act or omission, or by his negligence or misconduct or by any reason of his failure to take reasonable manner, causes the public institution concerned to suffer any pecuniary loss or damage to the property owned or in the possession of the public institution shall be guilty of an offence and be liable on conviction for a term exceeding three years but not exceeding ten years or to a fine exceeding fifty thousand shillings but not exceeding one hundred and fifty thousand shillings or to both such imprisonment and fine. In addition the court shall order the forfeiture to the Government of any property which has passed in connection with the commission of the offence, or if such property cannot be forfeited or cannot be found, of such sum as the court shall assess as the value of the property.

(2) For the purposes of this section “public institution” means and includes:

- (a) the Revolutionary Government of Zanzibar;
- (b) any Public Corporation established by any other law;
- (c) any company registered under the Companies Decree the share capital of which is owned by the Government of Zanzibar;
- (d) the Government of the United Republic of Tanzania and its parastatal organisations based in Zanzibar.

(3) Notwithstanding the fact that a public institution has received payment in respect of the loss under an insurance policy or has otherwise been compensated for such loss, such public institution would still be deemed to have incurred a pecuniary loss under the provisions of subsection (1).

(4) A person charged under this Act with stealing or any offence and is acquitted may be subsequently charged and tried for an offence under this section on the basis of the same acts or omissions upon which the previous charge was based.

(5) Upon conviction for an offence under this section, the court shall in addition order such person to pay the public institution compensation of an amount equivalent to the actual loss incurred by the public institution concerned. Such an order of compensation issued by the court may be filed by the respective public institution in a court of competent jurisdiction for execution as a decree notwithstanding the amount involved.

(6) No prosecution under this section shall be commenced without the consent of the Director of Public Prosecutions.

False
information to
public servant.

114. Whoever gives to any person employed in the public service any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause such person employed in the public service :

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

is guilty of a misdemeanour and shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding two hundred and fifty thousand shillings or to both such fine and such imprisonment.

Disobedience of statutory duty.

115. Everyone who wilfully disobeys any Statute or Act by doing any act which it forbids, or by omitting to do any act which it requires to be done, and which concerns the public or any part of the public, is guilty of a misdemeanour, and is liable, unless it appears from the Statute or Act that it was the intention of the Legislature to provide some other penalty for such disobedience, to imprisonment for a term not exceeding two years.

Disobedience of lawful order.

116. Everyone who disobeys any order, warrant or command duly made, issued or given by any court, officer or person acting in any public capacity and duly authorised in that behalf, is guilty of a misdemeanour, and is liable, unless any other penalty or mode of proceeding is expressly prescribed in respect of such disobedience, to imprisonment for a term not exceeding two years.

Division III

Offences Injurious to the Public in General

PART XIV

OFFENCES RELATING TO RELIGION

Insult to religion of any class.

117. Any person who destroys, damages or defiles any place of worship or any object, which is held sacred by any class of persons with the intention thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion, is guilty of a misdemeanour.

Disturbing religious assemblies .

118. Any person who voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship or religious ceremony, is guilty of a misdemeanour.

Trespassing on burial places.

119. Every person who with the intention of wounding the feelings of any person or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby, commits any trespass in any place of worship or in any place of sepulchre or in any place set apart for the performance of funeral rites or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the purpose of funeral ceremonies, is guilty of a misdemeanour.

Hindering burial of dead body, etc.

120. Whoever unlawfully hinders the burial of the dead body of any person, or without lawful authority in that behalf disinters, dissects, or harms the dead body of any person, or, being under a duty to cause the dead body of any person to be buried, fails to perform such duty, is guilty of a misdemeanour.

Writing or uttering words with intent to wound religious feelings.

121. Any person who, with the deliberate intention of wounding the religious feelings of any other person, writes any word, or any person who, with the like intention, utters any word or makes any sound in the hearing of any other person or makes any gesture or places any object in the sight of any other person, is guilty of a misdemeanour and is liable to imprisonment for a term not exceeding one year.

Abuse of religion.

122.(1) Where two or more persons assemble with intent to plot against the Government and so assemble under the pretext of being engaged in the performance of religious worship they shall be guilty of the misdemeanour termed "abuse of religion".

(2) An intent to plot against the Government shall be presumed if the following facts are proved:

- (a) that the persons assembled in secret or in circumstances likely to arouse suspicion; and
- (b) that the place where the persons assembled is not a mosque, church, temple or other place of worship; and

(c) that the effect of the words of any prayer recited by those assembled is likely to bring the Government of Zanzibar into hatred, ridicule or contempt or to promote feelings of ill-will and hostility against the Government.

(3) Any person who commits abuse of religion is liable to imprisonment for a term not exceeding seven years.

Promoting enmity between different groups.

123.(1) Any person who:

(a) by words, either spoken or written, or by signs or by visible representation or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence, language or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or communities; or

(b) commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or communities and which disturbs or is likely to disturb the public tranquility; or

(c) organizes any exercise, movement, drill or other similar activity intending that the participation in such activity shall use or be trained to use criminal force or violence or knowing it to be that the participants in such activity will use or be trained to use criminal force or violence, or participates in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, against any religious, racial, language or regional group or community and such activity, for any reason whatsoever caused or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or community;

is guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding three years.

(2) Any person who commits an offence specified in subsection (1) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be liable on conviction to imprisonment for a term not exceeding five years.

PART XV
OFFENCES AGAINST MORALITY

Carnal
knowledge
defined.

124. Wherever upon the trial for any offence punishable under this Part it may be necessary to prove carnal knowledge, it shall not be necessary to prove the actual emission of seed in order to constitute a carnal knowledge, but the carnal knowledge shall be deemed complete upon the proof of penetration only.

Rape.

125.(1) It is an offence for a man to rape a girl or a woman.

(2) A man commits the offence of rape if he has sexual intercourse with a girl or woman under circumstances falling under any of the following descriptions:

- (a) not being his wife, or being his wife who is lawfully separated from him without her consenting to it at the time of the sexual intercourse;
- (b) with her consent where the consent has been obtained by the use of force, threats or intimidation or by putting her in fear of death or of hurt or while she is in unlawful detention;
- (c) with her consent when her consent has been obtained at a time when she was of unsound mind or was in a state of intoxication induced by alcohol or any drugs, matter or thing, administered to her by the man or by some other person;
- (d) with her consent when the man knows that he is not her husband, and that her consent is given because she has been made to believe that he is another man to whom she is, or believes herself to be, lawfully married;

(e) with or without her consent when she is under eighteen years of age, unless the woman is his wife who is not lawfully separated from the man.

(3) Who ever:

(a) being a person in position of authority, takes advantage of his official position and commits rape on a girl or woman in his official relationship or wrongfully restrains and commits rape on a girl or woman;

(b) being on the management or on the staff of a remand home or other place of custody, established by or under law, or of a women's or children's institution, takes advantage of his position and commits rape on any woman inmate of the remand home, place of custody or institution;

(c) being on the management or on the staff of a hospital, takes advantage of his position and commits rape on a girl or woman;

(d) being a traditional healer, takes advantage of his position and commits rape on girl or woman who is his client for healing purposes;

being a religious leader takes advantage of his position and commits rape on a girl or woman.

(4) For the purposes of proving the offence of rape :

(a) penetration is sufficient to constitute the sexual intercourse necessary to the offence; and

(b) evidence of resistance such as physical injuries to the body is not necessary to prove that sexual intercourse took place without his or her consent.

Punishment of rape.

126.(1) Any person who commits rape is, except in the cases provided for in subsection (2), liable to be punished with imprisonment for life and in any case for imprisonment of not exceeding thirty years and with fine, and shall in addition be ordered to pay compensation of an amount determined by the court, to the person in respect of whom the offence was

committed for the injuries physical or psychological caused to such person.

(2) Where the offence is committed by a boy who is of the age of eighteen years or less, he shall :

- (a) if a first time offender, be sentenced to one year in juvenile home or working in the community;
- (b) if a second time offender, be sentenced to imprisonment for a term of twelve months;
- (c) if a third time and recidivist offender he may be sentenced to life imprisonment pursuant to subsection (1).

Punishment for Gang rape.

127.(1) Where the offence of rape is committed by one or more persons in a group of persons, each person in the group committing or abetting the commission of the offence is deemed to have committed gang rape.

(2) Every person who is convicted of gang rape shall on conviction be liable to imprisonment for life, regardless of the actual role he played in the rape, and whether or not he is a man or woman.

Attempted rape.

128.(1) Any person who attempts to commit rape commits the offence of attempted rape, and, except for the cases specified in subsection (3) is liable upon conviction to imprisonment for life.

(2) A person attempts to commit rape if, with intent to procure illicit sexual intercourse with any girl or woman, he manifest his intention by :

- (a) threatening the girl or woman for sexual purposes;
- (b) being a person of authority or influence in relation to the girl or woman, applying any act of intimidation over her for sexual purposes;
- (c) making any false representations to her for the purposes of obtaining her consent;
- (d) where the girl or woman is married, representing himself as a husband of the girl or woman; and the

girl or woman is put in a position where, but for the occurrence of anything independent of that person's will, she would be involuntarily carnally known.

(3) Where a person commits the offence of attempted rape by virtue of manifesting his intention in the manner specified in paragraph (c) or (d), he shall be liable to imprisonment for a term not less than twenty years.

Abduction.

129. Any person who with intent to marry or carnally know a woman of any age, or to cause her to be married or carnally known by any other person, takes her away, or detains her, against her will, is guilty of a felony, and is liable to imprisonment for a term not exceeding seven years.

Abduction of girls and boys.

130. Any person who, unlawfully takes:

- (a) an unmarried girl out of the custody or protection of her father or mother or other person having the lawful care or charge of her, and against the will of such father or mother or other person;
- (b) a boy out of the custody or protection of his father or mother or other person having the lawful care or charge of him, and against the will of such father or mother or other person;

is guilty of an offence and shall on conviction be liable to imprisonment for a term of three years.

Provided that it shall not be a defence to any charge under this section if it shall be made to appear to the court before whom the charge shall be brought that the person so charged had reasonable cause to believe and did in fact believe that the victim was of or above the age of 18 years.

Indecent assault

131.(1) Any person who unlawfully and indecently assaults any woman or girl is guilty of an offence and shall on conviction be liable to imprisonment for a term not exceeding fourteen years.

(2) It shall be no defence under this Act to a charge for an indecent assault on a girl or boy, to prove that he or she consented to the act of indecency.

(3) Any person who with intent to insult the modesty of any woman, boy or girl, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, boy or girl or intrudes upon the privacy of such woman, boy or girl is guilty of an offence and shall on conviction be liable to imprisonment for a term not exceeding three years or to a fine of not less than three hundred thousand shillings or to both such fine and imprisonment.

Defilement of boys.

132.(1) Any person who carnally knows any boy is guilty of an offence and shall on conviction be liable to imprisonment for life.

(2) Any person who attempts to have carnal knowledge of any boy is guilty of an offence and shall on conviction be liable to imprisonment for a term not less than twenty-five years.

Defilement of idiots and imbeciles.

133. Any person who, knowing a woman, man, girl, or boy to be an idiot or imbecile, has or attempts to have unlawful carnal knowledge of her or him in circumstances not amounting to rape, but which prove that the offender knew at the time of the commission of the offence that the woman, man, girl or boy was an idiot or imbecile, is guilty of an offence and shall on conviction be liable to imprisonment for a term of not less than fourteen years.

Procuration of Prostitution.

134. Any person who :

- (a) procures, or attempts to procure, any person, whether male or female of whatever age, whether with or without the consent of that person, to become, within or outside Zanzibar, a prostitute; or
- (b) procures, or attempts to procure, any person under eighteen years of age, to leave Zanzibar, whether with or without the consent of that person, with a view to the facilitation of illicit sexual intercourse with any person outside Zanzibar, or removes, or attempts to remove from Zanzibar that person, whether with or without the consent of that person, for that purpose; or
- (c) procures, or attempts to procure, any person of whatever age, to leave Zanzibar, whether with or

without the consent of that person, with intent that that person become the inmate of, or frequent a brothel elsewhere, or removes or attempts to remove, from Zanzibar any such person, whether with or without the consent of that person, for that purpose; or

- (d) brings, or attempts to bring, into Zanzibar, any person under eighteen years of age with a view to have illicit sexual intercourse with any other person, inside or outside Zanzibar; or
- (e) procures, or attempts to procure, any person of whatever age, whether with or without the consent of that person, to leave that person's usual place of abode in Zanzibar, that place not being a brothel, with intent that that person may for the purposes of prostitution become the inmate of, or frequent, a brothel within or outside Zanzibar; or
- (f) detains any person without the consent of that person in any brothel with a view to have illicit sexual intercourse or sexual abuse of the person;

commits the offence of procuration and is liable on conviction to imprisonment for a term of not less than five years and not exceeding ten years or to a fine not less than three hundred thousand shillings or to both such fine and imprisonment.

Procuring
defilement.

135. Any person who :

- (a) by threats or intimidation procures or attempts to procure any girl, boy or woman to have any illicit sexual intercourse inside or outside Zanzibar; or
- (b) by false pretences or false representations procures any girl, boy or woman to have any illicit sexual intercourse anywhere inside or outside Zanzibar; or
- (c) applies, administers to, or causes to be taken by any girl or woman any drug, matter, or thing, with intent to stupefy or overpower so as to thereby enable any man to have illicit sexual intercourse with such woman, girl or boy;

commits an offence and is liable on conviction to a fine not less than three hundred thousand shillings or to imprisonment for a term not exceeding ten years or to both the fine and imprisonment.

Householder,
etc., permitting
defilement of girl
or boy.

136. Any person, who, being the owner or occupier of premises or having or acting or assisting in the management or control thereof, induces or knowingly suffers any girl or boy to resort to or be upon such premises for the purpose of being unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man or generally, is guilty of a felony, and is liable to imprisonment for five years.

Householder
permitting
defilement of
girls.

137. Any person who, being the owner or occupier of premises or having or acting or assisting in the management or control thereof, induces or knowingly suffers any girl to resort to or be upon such premises for the purpose of being unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man or generally, is guilty of an offence and shall be liable to imprisonment for three years.

Detention of
female in brothel
or elsewhere.

138.(1) Any person who detains any woman or girl or boy against her or his will:

- (a) in or upon any premises with intent that she may be unlawfully and carnally known by any man, whether any particular man or generally, or
- (b) in any brothel;

is guilty of an offence and shall on conviction be liable to imprisonment for three years.

(2) When a woman or girl is in or upon any premises for the purposes of having any unlawful carnal connection, or is in any brothel, a person shall be deemed to detain such woman or girl in or upon such premises or in such brothel, if, with intent to compel or induce her to remain in or upon the premises or in such brothel, such person withholds from such woman or girl any wearing apparel or other property belonging to her, or where wearing apparel has been lent or otherwise supplied to such woman or girl by or by the directions of such person, such person threatens such woman or girl with legal proceedings if she takes away with her the wearing apparel so lent or supplied.

(3) No legal proceedings, whether civil or criminal, shall be taken against such woman or girl for taking away or being found in possession of such wearing apparel as was necessary to enable her to leave such premises or brothel.

Power of search.

139.(1) If it appears to any magistrate, on information made before him on oath by any parent, relative or guardian of any woman, boy or girl or other person who, in the opinion of the magistrate, is acting bona fide in the interests of any woman, boy or girl, that there is reasonable cause to suspect that such woman, boy or girl is unlawfully detained for immoral purposes by any person in any place within the jurisdiction of such magistrate, such magistrate may issue a warrant authorising the person named therein to search for, and, when found, to take to and detain in a place of safety such woman, boy or girl until she can be brought before a magistrate; and the magistrate before whom such woman, boy or girl is brought may cause her or him to be delivered up to her or his parents or guardians, or otherwise dealt with as circumstances may permit and require.

(2) A magistrate issuing such warrant may, by the same or any other warrant, cause any person accused of so unlawfully detaining such woman, boy or girl to be apprehended and brought before a magistrate and proceedings to be taken for punishing such person according to law.

(3) A woman, boy or girl shall be deemed to be unlawfully detained for immoral purposes if he or she is so detained for the purpose of being unlawfully and carnally known by any man, whether any particular man or generally; and

- (a) either is of eighteen years of age or below; or
- (b) under the age of twenty-one years, is so detained against her or his will or against the will of her or his father or mother or of any person having the lawful care or charge of her or him; or
- (c) if she is of or over the age of twenty-one years and is so detained against her will.

(4) Any person authorised by warrant under this section to search for any woman, boy or girl so detained as aforesaid may enter (if need be by force) any house, building, or other place mentioned in the warrant, and may remove such woman or boy therefrom.

Offence of Prostitution. 140. Any person who for consideration offers her or his body for sexual intercourse commits an offence and shall on conviction be liable to imprisonment for a term of three years.

Male person living on the earnings of prostitution or persistently soliciting. 141.(1) Every male person who:
(a) knowingly lives wholly or in part on the earnings of prostitution; or
(b) in any public place persistently solicits or importunes immoral purposes;
is guilty of a misdemeanour.

(2) Where a male person is proved to live with or to be habitually in the company of a prostitute or is proved to have exercised control, direction or influence over the movements of a prostitute in such a manner as to show that he is aiding, abetting or compelling her prostitution with any other person, or generally, he shall unless he shall satisfy the court to the contrary be deemed to be knowingly living on the earnings of prostitution.

Woman living on earnings of prostitution or abetting prostitution. 142. Every woman who knowingly lives wholly or in part on the earnings of prostitution or who is proved to have, for the purpose of gain, exercised control, direction or influence over the movements of a prostitute in such a manner as to show that she is aiding, abetting or compelling her prostitution with any person, or generally, is guilty of a misdemeanour.

Suspicious premises and power of search. 143. If it is made to appear to a magistrate by information on oath that there is reason to suspect that any house or any part of a house is used by a woman or girl for purposes of prostitution, and that any person residing in or frequenting the house is knowingly living wholly or in part on the earnings of the prostitute, or is exercising control, direction or influence over the movements of the prostitute the magistrate may issue a warrant authorising any police officer to enter and search the house and to arrest such person.

Brothels. 144. Any person who :
(a) keeps or manages or assists in the management of a brothel; or

- (b) being the tenant, lessee or occupier, or person in charge of any premises, knowingly permits such premises or any part thereof to be used as a brothel; or
- (c) being the lessor or landlord of any premises or the agent of such lessor or landlord, lets the same or any part thereof with the knowledge that such premises or some part thereof are or is to be used as a brothel or is wilfully a party to the continued use of such premises as a brothel,

is guilty of a misdemeanour.

Conspiracy to defile.

145. Any person who conspires with another to induce any woman or girl, by means of any false pretence or other fraudulent means, to permit any man to have unlawful carnal knowledge of her is guilty of a felony, and is liable to imprisonment for a term not exceeding three years.

Attempt to procure abortion.

146. Any person who with intent to procure miscarriage of a woman, whether she is or is not with child, unlawfully administers to her or causes her to take any poison or other noxious thing, or uses any force of any kind, or uses any other means whatever, is guilty of a felony, and is liable to imprisonment for a term not exceeding fourteen years.

Abortion by woman with child.

147. Any woman being with child who with intent to procure her own miscarriage unlawfully administers to herself any poison or other noxious thing, or uses force of any kind, or uses any other means whatever, or permits any such thing or means to be administered or used to her, is guilty of a felony, and is liable to imprisonment for a term not exceeding seven years.

Supplying drugs or instrument to procure abortion.

148. Any person who unlawfully supplies to or procures for any person any thing whatever, knowing that it is intended to be unlawfully used to procure the miscarriage of a woman, whether she is or is not with child is guilty of a felony, and is liable to imprisonment for a term not exceeding three years.

Knowledge of age of female immaterial.

149. Except as otherwise expressly stated, it is immaterial in the case of any of the offences committed with respect to a woman or girl under a specified age, that the accused did not know that the woman or girl was under that age, or believed that she was not under that age.

Unnatural offences.

150. Any person who :

- (a) has carnal knowledge of any person against the order of nature;
- (b) has carnal knowledge of an animal; or
- (c) permits a male person to have carnal knowledge of him or her against the order of nature;

is guilty of a felony, and is liable to imprisonment for a term not exceeding fourteen years.

Attempt to commit unnatural offences.

151. Any person who attempts to commit any of the offences specified in sections 150 is guilty of a felony, and is liable to imprisonment for a term not exceeding seven years.

Indecent assault on boy.

152 Any person who unlawfully and indecently assaults a boy is guilty of a felony, and is liable to imprisonment for a term not less than twenty-five years.

Acts of lesbianism.

153. Any woman who commits an act of lesbianism with another woman whether taking an active or passive role shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding five years or to a fine not exceeding five hundred thousand shillings.

Acts of gross indecency between persons.

154. Any person who, in public or private commits, or is a party to the commission of, or procures or attempts to procure the commission by any person of, any act of gross indecency with another person, is guilty of an offence and liable on conviction to imprisonment for a term not exceeding five years or to a fine not exceeding two hundred thousand shillings; save that where the offence is committed by a person of eighteen years of age or more in respect of any person under eighteen years of age, the offender shall be liable on conviction to imprisonment for a term not less than ten years, with corporal punishment, and shall also be ordered to pay compensation of an amount determined by the court to the person in respect of whom the offence was committed for any injuries physical or psychological caused to that person.

Sexual exploitation of children.

155.(1) Any person who:

- (a) knowingly permits any child to remain in any premises, for the purposes of causing such child to be sexually abused or to participate in any form of sexual activity or in any obscene or indecent exhibition or show; or
- (b) acts as procurer of a child for the purposes of sexual intercourse or for any form of sexual abuse or indecent exhibition or show; or
- (c) induces a person to be a client of a child for sexual intercourse or for any form of sexual abuse, or indecent exhibition or show, by means of print or other media, oral advertisements or other similar means; or
- (d) takes advantage of his influence over, or his relationship to a child, to procure the child for sexual intercourse or any form of sexual abuse or indecent exhibition or show; or
- (e) threatens, or uses violence towards, a child to procure the child for sexual intercourse or any form of sexual abuse or indecent exhibition or show; or
- (f) gives or promises to give monetary consideration, goods or other benefits to a child or his parents with intent to procure the child for sexual intercourse or any form of sexual abuse or indecent exhibition or show;

commits the offence of sexual exploitation of children and is liable upon conviction to imprisonment for a term of not less than five years and not exceeding twenty years.

Grave sexual abuse.

156.(1) Any person who, for sexual gratification, does any act, by the use of his or her private parts or any other part of the human body or any instrument on an orifice or part of the body of any other person, being an act which does not amount to rape under section 130 of this Act, commits the offence of grave sexual abuse if he does so in the circumstances falling under any of the following situations, that is to say :

- (a) without the consent of the other person; or

- (b) with the consent of the other person where the consent has by use of force, threat, or intimidation or putting that other person in fear of death or inflicting of hurt or while that other person was in unlawful detention; or
- (c) with the consent of the other person where such consent has been obtained at a time the other person was of unsound mind or was in a state of intoxication induced by alcohol or any drugs, matter or thing.

(2) Any person who :

(a) commits grave sexual abuse is liable, on conviction to imprisonment for a term of not less than fifteen years and not exceeding thirty years, with corporal punishment, and shall also be ordered to pay compensation of an amount determined by the court to the person in respect of whom the offence was committed for the injuries caused to that person;

(b) commits grave sexual abuse on any person of eighteen years of age or below;

is liable on conviction to imprisonment for a term of not less than twenty five years and not exceeding thirty years, and shall also be ordered to pay compensation of an amount determined by the court to the person in respect of whom the offence was committed for the injuries caused to that person.

Union of the person of the same sex.

157. Whoever has carnal knowledge of a person who is and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, such carnal knowledge not amounting to the offence of rape, is guilty of a misdemeanour. In such case the wife shall not be punishable as an abettor.

Sexual harassment.

158. Any person who:

(a) enter or arrange a union whether amounting to marriage or not of the person of the same sex;

- (b) celebrate a union with another person of the same sex whether amounting to marriage or not;
- (c) lives as husband and wife another person of the same sex;

shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding seven years.

Adultery.

159.(1) Any person who, with intention, assaults or by use of criminal force, sexually harasses another person, or by the use of words or actions, cause sexual annoyance or harassment to such other person, commits the offence of sexual harassment and is liable on conviction to imprisonment for a term not exceeding five years or to a fine not exceeding five hundred thousand shillings or to both the fine and imprisonment, and may also be ordered to pay compensation of an amount determined by the court to the person in respect of whom the offence was committed for any injuries caused to that person.

(2) Whoever, intending to insult the modesty of any person utters any word, makes any sound or gesture, or exhibits any object including any organ whether male or female, intending that such word or sound shall be heard, or that the gesture or object shall be seen, by the person, or intrudes upon the privacy of the person, commits the offence of sexual harassment.

(3) For the avoidance of doubt, unwelcome sexual advances by words or action used by a person in authority, in a working place or any other place, shall constitute offence of sexual harassment.

(4) For the purpose of this section an assault may include any act, which does not amount to rape under section 120.

(5) No prosecution for an offence under this section shall be instituted or continued where the complaint is made by the alleged victim at any time more than one hundred and eighty days after the occurrence of the event constituting the offence.

Incest by male, consent, order of guardianship, etc.

160.(1) Any male person who has carnal knowledge of a woman who is and whom he knows or has reason to believe to be the wife of another person, without the consent or connivance of that person, such carnal knowledge not amounting to the offence of rape, is guilty of a misdemeanour.

(2) Any female person who permits a male person, who is and whom she knows or has reason to believe to be the husband of another person, to have carnal knowledge of her without the consent or connivance of that other person is guilty of misdemeanour.

Incest by females.

161.(1) Any male person who has carnal knowledge of a female person, who is to his knowledge his granddaughter, daughter, sister or mother, is guilty of a felony, and is liable to imprisonment for a term not less than twenty-five years.

Provided that if it is alleged in the information or charge and proved that the female person is eighteen years of age or below, the offender shall be liable to imprisonment for life.

(2) It is immaterial that the carnal knowledge was had with the consent of the female person.

(3) If any male person attempts to commit any such offence as aforesaid he is guilty of a misdemeanour.

(4) On the conviction before any court of any male person of an offence under subsection (1) or of an attempt to commit the same, against any female under the age of twenty one years, it shall be in the power of the court to divest the offender of all authority over such female, and, if the offender is the guardian of such female, to remove the offender from such guardianship, and in any such case to appoint any person or persons to be the guardian or guardians of such female during her minority or any less period:

Provided that the High Court may at any time vary or rescind the order by the appointment of any other person as such guardian, or in any other respect.

Test of relationship.

162. Any female person of or above the age of eighteen years who with consent permits her grandfather, father, brother, or son to have carnal knowledge of her (knowing him to be her grandfather, father, brother or son, as the case may be) is guilty of a felony, and is liable to imprisonment for a term not exceeding five years.

Sanction of
Director of
Public
Prosecutions.

163. In sections 160 and 161 the expressions “brother” and “sister”, respectively, include half-brother and half-sister, and the provisions of the said sections shall apply whether the relationship between the person charged with an offence and the person with whom the offence is alleged to have been committed is or is not traced through lawful wedlock.

Disclosure of
identity of the
victim of certain
offences, etc.

164. No prosecution for an offence under section 159, 160 or 161 shall be commenced without the sanction of the Director of Public Prosecutions.

Fraudulent
pretence of
marriage.

165.(1) Any person, who prints or publishes the name or any matter which may make known the identity of any person against whom an offence against morality as defined under Part XV of this Act is alleged or found to have been committed (hereafter in this section referred to as the victim) shall be liable on conviction to imprisonment for a term not exceeding two years to a fine not exceeding three hundred thousand shillings.

(2) Nothing in subsection (1) extends to any printing or publication of the name or any matter, which may make known the identity of the victim if such printing or publication is:

- (a) by or under the order in writing of the officer in charge of the police station or the police officer making the investigation into such offence acting in good faith for the purposes of such investigation; or
- (b) by, or with the authorization in writing of, the victim; or
- (c) where the victim is dead or minor or of unsound mind, by or with the authorization in writing of, the next of kin of the victim.

Provided that no such authorisation shall be given by the next of kin to anybody without the permission of the officer in charge of the police station.

(3) Any person who prints or publishes any matter in relation to any proceeding before a court with respect to an offence referred to in subsection (1) without the previous permission of such court shall be liable on conviction to imprisonment for a term not exceeding two years or to fine not exceeding three hundred thousand shillings.

PART XVI
OFFENCES RELATING TO MARRIAGE AND DOMESTIC
RELATIONS

Unlawfully marrying again during the lifetime of husband or wife. 166. Any person who wilfully and by fraud causes any woman who is not lawfully married to him to believe that she is lawfully married to him and to cohabit or have sexual intercourse with him in that belief is guilty of a felony, and is liable to imprisonment for a term not exceeding ten years.

Unlawfully marrying again during the lifetime of husband or wife. 167. Any person who, having a husband or wife living, goes through a ceremony of marriage which is void by reason of it taking place during the life of such husband or wife, is guilty of a felony and is liable to imprisonment for a term not exceeding five years.

Provided that this section shall not extend to any person whose marriage with such husband or wife has been declared void by a court of competent jurisdiction, nor to any person who contracts a marriage during the life of a former husband or wife, if such husband or wife, at the time of the subsequent marriage, shall have been continually absent from such person for the space of seven years, and shall not have been heard of by such person as being alive within that time.

Cruelty to children. 168. Any person who dishonestly or with a fraudulent intention goes through the ceremony of marriage, knowing that he is not thereby lawfully married, is guilty of a felony, and is liable to imprisonment for a term not exceeding five years.

Desertion of children. 169.(1) Any person who, having the custody, charge or care of any person under eighteen years of age, ill-treats, neglects or abandons that person or causes female circumcision or procures that person to be assaulted, ill-treated, neglected or abandoned in a manner likely to cause him suffering or injury to health, including injury to, or loss of, sight or hearing, or limb or organ of the body or any mental derangement, commits the offence of cruelty to children.

(2) Any person who commits the offence of cruelty to children is liable on conviction to imprisonment for a term of not less than five years and not exceeding fifteen years or to a fine not exceeding three hundred thousand shillings or to both the fine and imprisonment, and shall be ordered to pay compensation of an amount determined by the court to the person in respect of whom the offence was committed for the injuries caused to that person.

Neglecting to provide food, etc., for children.

170. Any person who, being the parent or guardian or other person having the lawful care or charge of any child of tender years and unable to provide for itself, refuses or neglects to provide (being able to do so) sufficient food, clothes, bedding and other necessaries for such child, so as thereby to injure the health of such child, is guilty of a misdemeanour.

Master not providing for servants or apprentices.

171. Any person who, being legally liable either as master or mistress, to provide for any apprentice or servant necessary food, clothing, or lodging, wilfully and without lawful excuse refuses or neglects to provide the same, or unlawfully and maliciously does or causes to be done any bodily harm to such apprentice or servant so that the life of such apprentice or servant is endangered or that his health has been or is likely to be permanently injured, is guilty of a misdemeanour.

Trafficking of person.

172.(1) Any person who:

- (a) engages in the act of buying, selling or bartering of any person for money or for any other consideration; or
- (b) for the purpose of promoting, facilitating or inducing the buying or selling or bartering of the placement in adoption of any person for money or for any other consideration –
 - (i) arranges for, or assists, a child to travel to a foreign country without the consent of his parent or lawful guardian; or
 - (ii) obtains an affidavit of consent from a pregnant woman for money or for any other consideration, for the adoption of the unborn child of that woman; or
 - (iii) recruits women or couples to bear children; or
 - (iv) being a person concerned with the registration of births, knowingly permits the falsification of any birth record or register; or
 - (v) engages in procuring children from hospitals, shelters for women, clinics,

nurseries, day care centres, or other child care institutions or welfare centres for money or other consideration or procures a child for adoption from any such institution or centre, by intimidation of the mother or any other person, or child for adoption from any such institution or centres; or

- (vi) impersonates the mother or assists in the impersonation;

commits the offence of trafficking and is liable on conviction to imprisonment for a term not less than five years and not exceeding twenty years and a fine of not more than three hundred thousand shillings or to both the fine and imprisonment.

(2) In this section "child" means a person of the age of eighteen years or below.

Child stealing.

173.(1) Any person who, with intent to deprive any parent, guardian or other person who has lawful care or charge of a child under the age of fourteen years, of the possession of such child.

- (a) forcibly or fraudulently takes or entices away, or detains the child; or
- (b) receives or harbours the child, knowing it to have been so taken or enticed away or detained;

is guilty of a felony, and is liable to imprisonment for a term not exceeding seven years.

(2) It is a defence to a charge of any of the offences in this section to prove that the accused person claimed in good faith a right to the possession of the child, or, in the case of an illegitimate child, is its mother or claimed to be its father.

PART XVII **NUISANCES AND OFFENCES AGAINST HEALTH AND** **CONVENIENCE**

Public nuisance.

174.(1) Any person who does an act not authorised by law or omits to discharge a legal duty and thereby causes any public injury or danger or annoyance, or obstructs or causes

inconvenience to the public in the exercise of public rights, commits the misdemeanour termed a “public nuisance” and is liable to imprisonment for a term not exceeding one year.

(2) It is immaterial that the act or omission complained of is convenient to a larger number of the public than it inconveniences, but the fact that it facilitates the lawful exercise of their rights by a part of the public may show that it is not a nuisance to any of the public.

Gaming houses.

175.(1) Any person being the owner or occupier, or having the use of, any house, room or place, who shall open, keep or use the same for the purpose of unlawful gaming being carried on therein, and any person who, being the owner or occupier of any house, room or place, shall knowingly and wilfully permit the same to be opened, kept or used by any other person for the purpose aforesaid, and any person having the care or management of or in any manner assisting in conducting the business of any house, room or place opened, kept or used for the purpose aforesaid, is said to keep a common gaming house.

(2) In this section “unlawful gaming” includes roulette, every game of dice except backgammon, every game of cards which is not a game of mere skill, and any game the chances of which are not alike favourable to all the players, including the banker or other person or persons by whom the game is managed or against whom the other players stake, play or bet.

(3) Any person who keeps a common gaming house is guilty of a misdemeanour.

(4) Any person other than the persons mentioned in subsection (1) who is found in a common gaming house shall be deemed, unless the contrary is proved, to be there for the purpose of unlawful gaming, and is guilty of a misdemeanour, and is liable to a fine not exceeding one hundred shillings for the first offence, and for each subsequent offence to a fine not exceeding four hundred shillings or imprisonment for a term not exceeding three months, or to both such fine and imprisonment.

Betting houses.

176.(1) Any house, room or place which is used for any of the purposes following, that is to say :

(a) for the purpose of bets being made therein between persons resorting to the place and –

- (i) the owner, occupier, or keeper of the place, or any person using the place;
 - (ii) any person procured or employed by or acting for or on behalf of such owner, occupier or keeper, or person using the place; or
 - (iii) any person having the care or management, or in any manner conducting the business, of the place; or
- (b) for the purpose of any money or other property being paid or received therein by or on behalf of any such owner, occupier, or keeper, or person using the place, as, or for the consideration –
- (i) for an assurance, undertaking, promise, or agreement, express or implied, to pay or give thereafter any money or other property on any event or contingency of or relating to any horse race, or other race, fight, game, sport or exercise; or
 - (ii) for securing the paying or giving by some other person of any money or other property on any such event or contingency;

is called a common betting house.

(2) Any person who, being the owner or occupier of any house, room or place, knowingly and wilfully permits it to be opened, kept or used as a common betting house by another person, or who has the use or management, or assists in conducting the business, of a common betting house, is guilty of a misdemeanour, and is liable to imprisonment for a term not exceeding one year.

Provided always that nothing herein contained shall make illegal the use of a totalisator by a race club, gymkhana club or sports club recognised by the Government at any public meeting, with the approval in each case of the Commissioner of Police. In this proviso "totalisator" means and includes the instrument, machine or contrivance, commonly known as totalisator and any other instrument, machine or contrivance of like nature, or any scheme enabling any number of persons to make bets with one another on the like principles.

Lotteries.

177.(1) Any person who opens, keeps or uses any place for carrying on a lottery not authorised by the Commissioner of Police or by a police officer not below the rank of Superintendent to whom power has been delegated by the Commissioner of Police to give such authority, is guilty of a misdemeanour, and any person who in any way infringes or fails to comply with any conditions (if any) laid down when such authorisation as above mentioned is given is guilty of a misdemeanour and is liable to imprisonment for a term not exceeding six months.

(2) Any person who prints or publishes, or causes to be printed or published, any advertisement or other notice of or relating to any lottery not so authorised or of or relating to the sale of any ticket or chance or of any share in any ticket or chance in any lottery not so authorised, is liable to a fine not exceeding one hundred thousand shillings:

Provided that the provisions of this subsection shall not apply to any advertisement or notice which is printed or published solely for the purpose of notifying to the public the results of any unauthorised lottery.

(3) In this section "lottery" includes any scheme or device for the sale, gift, disposal or distribution of any property depending upon or determined by lot or chance, whether by the throwing or casting of dice, or by the drawing of tickets, cards, lots, numbers or figures, or by means of a wheel or trained animal, or otherwise howsoever.

(4) When any person is convicted of an offence under this section, the court may, in addition to or in lieu of any penalty which may be imposed, order the forfeiture to the Government of Zanzibar of any instrument or thing used in connection with the lottery concerning which the conviction has taken place.

Keeper of premises defined.

178. Any person who appears, acts or behaves as master or mistress, or as the person having the care or management of any such house, room, set of rooms, or place as is mentioned in sections 175, 176 and 177 is to be taken to be the keeper thereof, whether he is or is not the real keeper.

Traffic in obscene publications.

179.(1) Any person who:

(a) for the purpose of or by way of trade or for the purpose of distribution or public exhibition, makes,

produces, or has in his possession any one or more obscene writings, drawings, prints, paintings, printed matter, pictures, posters, emblems, photographs, cinematograph films, or any other obscene objects, or any other object tending to corrupt morals;

- (b) for any of the purposes above mentioned imports, conveys or exports, or causes to be imported, conveyed or exported, any such matters or things, or in any manner whatsoever puts any of them in circulations;
- (c) carries on or takes part in any business, whether public or private, concerned with any such matters or things, or deals in any such matters or things in any manner whatsoever, or distributes any of them, or exhibits any of them publicly, or makes a business of lending any of them;
- (d) advertises or makes known by any means whatsoever with a view to assisting the circulation of, or traffic in, any such matters or things, that a person is engaged in any of the acts referred to in this section, or advertises or makes known how, or from whom, any such matters or things can be procured either directly or indirectly; or
- (e) publicly exhibits any indecent show or performance or any show or performance tending to corrupt morals,
- (f) in any internet center opened to the public, being the owner allows any person to display any obscene materials from the internet, or being the user displays obscene materials from the internet;

is guilty of a misdemeanour and is liable to imprisonment for a term not exceeding two years or to a fine not exceeding five hundred thousand shillings.

(2) If, in respect of any of the offences specified in paragraphs (a), (b), (c), (d) and (f) of subsection (1), any constituent element thereof is committed in Zanzibar, such commission shall be sufficient to render the person accused of such offence triable therefore in Zanzibar.

(3) A court may, on the application of the Director of Public Prosecutions, State Counsel or a Superintendent of Police, order the destruction of any obscene matter or thing to which this section relates, whether any person may or may not have been convicted under the provisions of this section in respect of such obscene matter or thing.

Obscene acts.

180. Any person who, to the annoyance of others, does any obscene act in any public place shall be liable on conviction to imprisonment for a term not exceeding three months or with fine not exceeding two hundred and fifty thousand shillings, or with both.

Idle and disorderly persons.

181. The following persons :

- (a) every common prostitute behaving in a disorderly or indecent manner in any public place;
- (b) every person wandering or placing himself in any public place to beg or gather alms, or causing or procuring or encouraging any child or children so to do;
- (c) every person playing at any game of chance for money or money's worth in any public place;
- (d) every person who in any public place conducts himself in a manner likely to cause a breach of the peace;
- (e) every person who in any public place is found drunk and behaving in a riotous or disorderly manner or incapable of taking care of himself;
- (f) every person who without lawful excuse publicly does any indecent act;
- (g) every person who in any public place solicits for immoral purposes;
- (h) every person wandering about and endeavouring by the exposure of wounds or deformation to obtain or gather alms; and
- (i) every person who is dissolute or behaving in a manner which would likely lead to indecent act or any of these;

shall be deemed idle and disorderly persons, and shall be liable to be sent to Offenders Educational Centre for a term of not less than one year and not exceeding two years.

Rogues and vagabonds.

182. The following persons :

- (a) every person convicted of an offence under section 181 after having been previously convicted as an idle and disorderly person;
- (b) every person going about as a gatherer or collector of alms, or endeavouring to procure charitable contributions of any nature or kind, under any false or fraudulent pretence;
- (c) every suspected person or reputed thief who has no visible means of subsistence and cannot give a good account of himself;
- (d) every person found in or upon or near any premises or in any road or highway or any place adjacent thereto or in any public place at such time and under such circumstances as to lead to the conclusion that such person is there for an illegal or disorderly purpose;
- (e) every person who does not have employment as defined under the Zanzibar Human Resources Utilization Act, No.1 of 1983; and
- (f) any person who is seen to be in any restricted area which may from time to time be declared so by the Town Council or any other authority (whether such person is asleep or otherwise), and who fails to give reasonable reasons as to why he is there at the material time,

shall be deemed to be a rogue and vagabond, and shall be guilty of a misdemeanour, and shall be liable for the first offence to be sent to Offenders Educational Centre for a term of not less than two years with corporal punishment not exceeding nine strokes, and for every subsequent offence to be sent to the Offenders Educational Centre for a term not exceeding four years.

Offences
against military
uniforms.

183.(1) Any person who, not being a person serving in the military forces of the United Republic of Tanzania or the Special Departments wears without the permission of the lawful authority the uniform of any of those forces or departments or any dress having the appearance or bearing any of the regimental or other distinctive marks of such uniform, is guilty of a misdemeanour, and is liable to imprisonment for a term not exceeding one month or to a fine not exceeding one hundred thousand shillings.

Provided that nothing in this section shall prevent any person from wearing any uniform or dress in the course of a stage play performed in any place in which stage plays may lawfully be publicly performed, or in the course of a music-hall or circus performance, or in the course of any bona fide military representation.

(2) Any person who unlawfully wears the uniform of any of the forces and special departments aforesaid, or any dress having the appearance or bearing any of the regimental or other distinctive marks of any such uniform, in such a manner or in such circumstances as to be likely to bring contempt on that uniform, or employs any other person to wear such uniform or dress is guilty of a misdemeanour, and is liable to imprisonment for a term not exceeding three months or to a fine not exceeding two hundred and fifty thousand shillings.

(3) Any person who, not being in the service of the United Republic of Tanzania or Government of Zanzibar or having previously received the written permission of the lawful authority so to do, imports or sells or has in his possession for sale any such uniform or dress as is mentioned in this section, or the buttons or badges appropriate thereto, is guilty of a misdemeanour, and is liable to imprisonment for a term not exceeding six months or to a fine not exceeding five hundred thousand shillings:

Provided that nothing in this subsection shall be deemed to prohibit the possession of any such uniform or dress by any person who, having served in the forces of the United Republic of Tanzania or Government of Zanzibar's special departments, is lawfully in possession thereof.

(4) When any person shall have been convicted of any offence under this section, the uniform, dress, button, badge or other thing in respect of which the offence has been committed shall be forfeited unless the Court shall otherwise order.

- Negligent act likely to spread infection. 184. Any person who unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, is guilty of a misdemeanour.
- Fouling water. 185. Any person who voluntarily corrupts or fouls the water of any public spring or reservoir, so as to render it less fit for the purpose of which it is ordinarily used, is guilty of a misdemeanour.
- Fouling air. 186. Any person who voluntarily vitiates the atmosphere in any place so as to make it noxious to the health of persons in general dwelling or carrying on business in the neighbourhood or passing along a public way, is guilty of a misdemeanour.
- Offensive trades. 187. Any person who, for the purposes of trade or otherwise, makes loud noises or offensive or unwholesome smells in such places and circumstances as to annoy any considerable number of persons in the exercise of their common rights, commits an offence and is liable to be punished as for a common nuisance.
- Disobedience to quarantine rule. 188. Any person who knowingly disobeys any rule made and promulgated by the Government for putting any vessel into a state of quarantine, or for regulating the intercourse of vessels in a state of quarantine with the shore or with other vessels, or for regulating the intercourse between places where an infectious disease prevails and other places shall be liable on conviction to imprisonment for a term not exceeding six months or with fine not exceeding three hundred thousand shillings or both.
- Punishment for public nuisance. 189. Any person who commits a public nuisance in any case not otherwise punishable under this Act, shall be liable on conviction to fine not exceeding three hundred thousand shillings.
- Continuance of nuisance. 190. Any person who repeats or continues a public nuisance, having been enjoined by any public servant who has lawful authority to issue such injunction not to repeat or continue such nuisance, shall be liable on conviction to imprisonment for a term not exceeding six months, or with fine not exceeding three hundred thousand or with both.

Adulteration of food. 191. Any person who adulterates any article of food or drink, so as to make such article noxious as food or drink, intending to sell such article as food or drink, knowing it to be likely that the same will be sold as food or drink, is guilty of misdemeanour.

Sale of noxious food. 192. Any person who sells, or offers or exposes for sale, as food or drink, any article which has been rendered or has become noxious, or is in a state unfit for food or drink, knowing or has reason to believe that the same is noxious as food or drink, is guilty of misdemeanour.

Adulteration of drugs. 193. Any person who adulterates any drug or medical preparation in such a manner as to lessen the efficacy or change the operation of such drug or medical preparation, or to make it noxious intending that it shall be sold or used for any medicinal purpose, as if it had not undergone such adulteration, is guilty of misdemeanour.

Sale of adulterated drugs. 194. Any person who adulterates any drug or medical preparation in such a manner as to lessen the efficacy or change its operation, or renders it noxious, sells the same, or offers or exposes it for sale, or issues it from any dispensary for medicinal purposes as unadulterated, or causes it to be used for medicinal purposes by any person not knowing of the adulteration, is guilty of misdemeanour.

Division IV – Offences against the Person

PART XVIII

MURDER, MANSLAUGHTER AND INFANTICIDE

Manslaughter. 195. Any person who by an unlawful act or omission causes the death of another person is guilty of the felony termed “manslaughter”. An unlawful omission is an omission amounting to culpable negligence to discharge a duty tending to the preservation of life and health, whether such omission is or is not accompanied by an intention to cause death or bodily harm.

Murder. 196. Any person who of malice aforethought causes the death of another person by an unlawful act or omission is guilty of murder.

Punishment of murder. 197. Any person convicted of murder shall be sentenced to death.

Punishment of manslaughter. 198. Any person who commits the felony of manslaughter is liable to imprisonment for life.

Malice aforethought. 199. Malice aforethought shall be deemed to be established by evidence proving any one or more of the following circumstances:

- (a) an intention to cause the death of or to do grievous harm to any person, whether such person is the person actually killed or not;
- (b) knowledge that the act or omission causing death will probably cause the death of or grievous harm to some person, whether such person is the person actually killed or not, although such knowledge is accompanied by indifference whether death or grievous bodily harm is caused or not, or by a wish that it may not be caused;
- (c) an intent to commit a felony;
- (d) an intention by the act or omission to facilitate the flight or escape from custody of any person who has committed or attempted to commit a felony.

Killing on provocation. 200. When a person who unlawfully kills another under circumstances which, but for the provisions of this section would constitute murder, does the act which causes death in the heat of passion caused by sudden provocation as hereinafter defined, and before there is time for his passion to cool, he is guilty of manslaughter only.

Provocation defined. 201.(1) The term "provocation" means and includes, except as hereinafter stated, any wrongful act or insult of such a nature as to be likely, when done to an ordinary person, or in the presence of an ordinary person to another person who is under his immediate care, or to whom he stands in a conjugal, parental, filial, or fraternal relation, or in the relation of master or servant, to deprive him of the power of self control and to induce him to commit an assault of the kind which the person charged committed upon the person by whom the act or insult is done or offered.

(2) When such an act or insult is done or offered by one person to another, or in the presence of another to a person who is under the immediate care of that other, or to whom the latter stands in any such relation as aforesaid, the former is said to give the latter provocation for an assault.

(3) A lawful act is not provocation to any person for an assault.

(4) An act which a person does in consequence of incitement given by another person in order to induce him to do the act and thereby to furnish an excuse for committing an assault is not provocation to that other person for an assault.

(5) An arrest which is unlawful is not necessarily provocation for an assault, but it may be evidence of provocation to a person who knows of the illegality.

(6) For the purposes of this section the expression "an ordinary person" shall mean an ordinary person of the community to which the accused belongs.

Causing death defined.

202. A person is deemed to have caused the death of another person although his act is not the immediate or the sole cause of death in any of the following cases:

- (a) if he inflicts bodily injury on another person in consequence of which that other person undergoes surgical or medical treatment which causes death. In this case it is immaterial whether the treatment was proper or mistaken, if it was employed in good faith and with common knowledge and skill; but the person inflicting the injury is not deemed to have caused the death if the treatment which was its immediate cause was not employed in good faith or was employed without common knowledge or skill;
- (b) if he inflicts bodily injury on another which would not have caused death if the injured person had submitted to proper surgical or medical treatment or has observed proper precautions as to his mode of living;
- (c) if by actual or threatened violence he causes that other person to perform an act which causes the death of that person, such act being a means of

avoiding such violence which in the circumstances would appear natural to the person whose death is so caused;

- (d) if by any act or omission he hastens the death of a person suffering under any disease or injury which apart from such act or omission would have caused death;
- (e) if his act or omission would not have caused death unless it had been accompanied by an act or omission of the person killed or of other persons.

When child deemed to be person.

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

Limitation as to time of death.

204.(1) A person is not deemed to have killed another if the death of that person does not take place within a year and a day of the cause of death.

(2) Such period is reckoned inclusive of the day on which the last unlawful act contributing to the cause of death was done.

(3) When the cause of death is an omission to observe or perform a duty, the period is reckoned inclusive of the day on which the omission ceased.

(4) When the cause of death is in part an unlawful act, and in part an omission to observe or perform a duty, the period is reckoned inclusive of the day on which the last unlawful act was done or the day on which the omission ceased, whichever is the later.

Infanticide.

205. Where a woman by any wilful act or omission causes the death of her child being a child under the age of twelve months, but at the time of the act or omission the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent upon the birth of the child, then, notwithstanding that the circumstances were that but for this section the offence would have amounted to murder, she shall be guilty of felony, to wit of infanticide, and may for

such offence be dealt with and punished as if she had been guilty of the offence of manslaughter of the child.

PART XIX
DUTIES RELATING TO THE PRESERVATION OF
LIFE AND HEALTH

Responsibility of person who has charge of another.

206. It is the duty of every person having charge of another who is unable by reason of age, sickness, unsoundness of mind, detention or any other cause to withdraw himself from such charge, and who is unable to provide himself with the necessaries of life, whether the charge is undertaken under a contract, or is imposed by law, or arises by reason of any act, whether lawful or unlawful, of the person who has such charge, to provide for that other person the necessaries of life; and he shall be deemed to have caused any consequences which adversely affect the life or health of the other person by reason of any omission to perform that duty.

Duty of head of family.

207. It is the duty of every person who, as head of a family, has charge of a child under the age of fourteen years, being a member of his household to provide the necessaries of life for such child; and he shall be deemed to have caused any consequences which adversely affect the life or health of the child by reason of any omission to perform that duty, whether the child is helpless or not.

Duty of master or mistress.

208. It is the duty of every person who as master or mistress has contracted to provide necessary food, clothing, or lodging for any servant or apprentice under the age of sixteen years to provide the same; and he or she shall be deemed to have caused any consequences which adversely affect the life or health of the servant or apprentice by reason of any omission to perform that duty.

Duty of persons doing dangerous act or in charge of dangerous things.

209.(1) It is the duty of every person who, except in a case of necessity, undertakes to administer surgical or medical treatment to any other person, or to do any other lawful act which is or may be dangerous to human life or health, to have reasonable skill and to use reasonable care in doing such act; and he shall be deemed to have caused any consequences which adversely affect the life or health of any person by reason of any omission to observe or perform that duty.

(2) It is the duty of every person who has in his charge or under his control anything, whether living or inanimate, and whether moving or stationary, of such a nature that, in the absence of care or precaution in its use or management, the life, safety, or health of any person may be endangered, to use reasonable care and take reasonable precautions to avoid such danger; and he shall be deemed to have caused any consequences which adversely affect the life or health of any person by reason of any omission to perform that duty.

PART XX
OFFENCES CONNECTED WITH MURDER AND SUICIDE

Attempt
unlawfully to
cause death.

210. Any person who:

- (a) attempts unlawfully to cause the death of another;
or
- (b) with intent unlawfully to cause the death of another does any act, or omits to do any act which it is his duty to do, such act or omission being of such nature as to likely to endanger human life;

is guilty of a felony, and is liable to imprisonment for life.

Accessory after
the fact to
murder.

211. Any person who becomes accessory after the fact to murder is guilty of a felony, and is liable to imprisonment for a term not exceeding seven years.

Written threats
to murder.

212. Any person who, knowing the contents thereof, directly or indirectly causes any person to receive any writing threatening to kill any person is guilty of a felony, and is liable to imprisonment for a term not exceeding seven years.

Conspiracy to
murder.

213. Any person who conspires with any other person to kill any person, whether such person is in Zanzibar or elsewhere, is guilty of a felony, and is liable to imprisonment for a term not exceeding fourteen years.

Aiding suicide.

214. Any person who :

- (a) procures another to kill himself;
- (b) counsels another to kill himself and thereby induces him to do so; or

(c) aids another in killing himself,

is guilty of a felony, and is liable to imprisonment for life.

Attempting
suicide.

215. Any person who attempts to kill himself is guilty of a misdemeanour.

Concealing birth
of children.

216. Any person who, when a woman is delivered of a child, endeavours, by any secret disposition of the dead body of the child, to conceal the birth, whether the child died before, at, or after its birth, is guilty of a misdemeanour.

Child
destruction.

217.(1) Subject as hereinafter in this subsection provided, any person who with intent to destroy the life of a child capable of being born alive, by any wilful act causes a child to die before it has an existence independent of its mother, shall be deemed to be guilty of the offence of murder, and shall on conviction be sentenced to death:

Provided that it shall not be an offence under this section if it is proved that the act which caused the death of the child was done in good faith by a doctor in a Government hospital for the purpose only of preserving the life of the mother and the fact that the act was so done is supported by a certificate signed by a team of at least two other doctors in a Government hospital.

(2) For the purposes of this section evidence that a woman had at any material time being pregnant for a period of twenty-eight weeks or more shall be prima facie proof that she was at that time pregnant of a child capable of being born alive.

Concealing
design to
commit an
offence.

218.(1) Any person intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with death or imprisonment for life, voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence or makes any representation which he knows to be false respecting such design shall, if that offence be committed be liable for imprisonment for a term not exceeding seven years, or, if the offence be not committed be liable for imprisonment for a term not exceeding three years.

(2) Any person intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable by imprisonment, voluntarily conceals, by any act or illegal omission, the existence of a design to commit

such offence or makes any representation which he knows to be false respecting such design shall, if that offence be committed be liable for imprisonment for one-fourth of a term provided for the offence, or, if the offence be not committed be liable for imprisonment for one-eighth of a term.

PART XXI
OFFENCES ENDANGERING LIFE OR HEALTH

Disabling in order to commit felony or misdemeanour.

219. Any person who, by any means calculated to choke, suffocate or strangle, and with intent to commit or facilitate the commission of a felony or misdemeanour, or to facilitate the flight of an offender after the commission or attempted commission of a felony or misdemeanour, renders or attempts to render any person incapable of resistance, is guilty of a felony, and is liable to imprisonment for life.

Stupefying in order to commit felony or misdemeanour.

220. Any person who, with intent to commit or to facilitate the commission of a felony or misdemeanour, or to facilitate the flight of an offender after the commission or attempted commission of a felony or misdemeanour, administers or attempts to administer any stupefying or overpowering drug or thing to any person, is guilty of a felony, and is liable to imprisonment for life.

Acts intended to cause grievous harm or to prevent arrest.

221. Any person who, with intent to maim, disfigure or disable any person, or to do some grievous harm to any person, or to resist or prevent the lawful arrest or detention of any person:

- (a) unlawfully wounds or does any grievous harm to any person by any means whatever;
- (b) unlawfully attempts in any manner to strike any person with any kind of projectile or with a spear, sword, knife, or other dangerous or offensive weapon;
- (c) unlawfully causes any explosive substance to explode;
- (d) sends or delivers any explosive substance or other dangerous or noxious thing to any person;
- (e) causes any such substance or thing to be taken or received by any person;

- (f) puts any corrosive fluid or any destructive or explosive substance in any place; or
- (g) unlawfully casts or throws any such fluid or substance at or upon any person, or otherwise applies any such fluid or substance to the person of any person;

is guilty of a felony, and is liable to imprisonment for life.

Preventing escape from wreck.

222. Any person who unlawfully:

- (a) prevents or obstructs any person who is on board of, or is escaping from, a vessel which is in distress or wrecked, in his endeavours to save his life; or
- (b) obstructs any person in his endeavours to save the life of any person so situated;

is guilty of a felony, and is liable to imprisonment for life.

Intentionally endangering safety of persons travelling by railway.

223. Any person who, with intent to injure or to endanger the safety of any person travelling by any railway, whether a particular person or not :

- (a) places anything on the railway;
- (b) deals with the railway, or anything whatever upon or near the railway, in such manner as to affect or endanger the free and safe use of the railway or the safety of any such person;
- (c) shoots or throws anything at, into, or upon or causes anything to come into contact with any person or thing on the railway;
- (d) shows any light or signal, or in any way deals with any existing light or signal, upon or near the railway; or
- (e) by any omission to do any act which it is his duty to do causes the safety of any such person to be endangered;

is guilty of a felony, and is liable to imprisonment for life.

Endangering
safety of vessel.

224.(1) Any person who:

- (a) performs an act of violence against a person on board a vessel or aircraft in flight if that acts is likely to endanger the safety of that vessel or aircraft; or
- (b) destroys a vessel or an aircraft in service or causes damage to such a vessel or aircraft which renders it incapable of moving or flight or which is likely to endanger its safety in flight; or
- (c) places or causes to be placed on a vessel or aircraft in service, by any means whatsoever a device or substance which is likely to destroy that vessel or aircraft, or to cause damage to it which is likely to endanger its safety; or
- (d) destroys or damages navigation facilities or interferes with their operation, if any such act is likely to endanger the safety of vessel or aircraft in flight; or
- (e) communicates information which he knows to be false, thereby endangering the safety of vessel or an aircraft in flight;

shall be guilty of an offence and shall be liable on conviction to imprisonment for life.

(2) In this section:

- (a) an aircraft shall be deemed to be in flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation; in the case of forced landing, the flight shall be deemed to continue until the competent authorities take over the responsibility for the aircraft and for persons and property on board;
- (b) an aircraft shall be deemed to be in service from the beginning of the pre-flight preparation of the aircraft by ground personnel or by the crew for a specific flight until twenty-four hours after any landing; the period of service shall in any event

extend for the entire period during which the aircraft is in flight as defined in paragraph (a) of this section;

- (c) an act of violence shall include any threat to use violence.

(3) A person may be prosecuted for an offence under this section notwithstanding that the offence was committed outside Zanzibar.

Provided that save where the offence was committed on or in relation to an aircraft registered in Zanzibar or owned by a citizen of Tanzania resident in Tanzania or by a body corporate established under any written law, including a company incorporated under the Companies Decree, no person shall be tried and punished for an offence under this section if he or she has been prosecuted for and convicted or, as the case may be, acquitted, for the same offence or for an offence involving the same facts, by any court or other judicial authority outside Zanzibar.

(4) No person shall be prosecuted for an offence under this section except with the consent of the Director of Public Prosecutions.

Grievous harm.

225. Any person who unlawfully does grievous harm to another is guilty of a felony, and is liable to imprisonment for a term not exceeding seven years.

Attempting to injure by explosive substances.

226. Any person who unlawfully, and with intent to do any harm to another, puts any explosive substance in any place whatever, is guilty of a felony, and is liable to imprisonment for a term not exceeding fourteen years.

Maliciously administering poison with intent to harm.

227. Any person who unlawfully, and with intent to injure or annoy another, causes any poison or noxious thing to be administered to, or taken by, any person, and thereby endangers his life, or does him some grievous harm, is guilty of a felony, and is liable to imprisonment for a term not exceeding fourteen years.

Wounding and similar acts.

228. Any person who:

- (a) unlawfully wounds another; or

- (b) unlawfully, and with intent to injure or annoy any person, causes any poison or other noxious thing to be administered to, or taken by any person,

is guilty of a felony, and is liable to imprisonment for a term not exceeding three years.

Failure to supply necessaries.

229. Any person who, being charged with the duty of providing for another necessaries of life, without lawful excuse fails to do so, whereby the life of that other person is or is likely to be endangered, or his health is or is likely to be permanently injured, is guilty of a felony, and is liable to imprisonment for a term not exceeding three years.

Responsibility as to surgical operation.

230. A person is not criminally responsible for performing in good faith and with reasonable care and skill a surgical operation upon any person for his benefit, or upon an unborn child for the preservation of the mother's life, if the performance of the operation is reasonable, having regard to the patient's state at the time, and to all the circumstances of the case.

Criminal responsibility.

231. Any person authorised by law or by the consent of the person injured by him to use force is criminally responsible for any excess, according to the nature and quality of the act which constitutes the excess.

Exception.

232. Notwithstanding anything contained in section 231 consent by a person to the causing of his own death or his own maim does not affect the criminal responsibility of any person by whom such death or maim is caused.

PART XXII

OFFENCES RELATING TO CRIMINAL GANG ACTIVITIES

Gang related offences.

233.(1) Any person who actively participates in or is a member of a criminal gang and who:

- (a) wilfully aids and abets any criminal activity committed for the benefit of, at the direction of, or in association with any criminal gang;
- (b) threatens to commit, bring about or perform any act of violence or any criminal activity by a criminal gang or with the assistance of a criminal gang; or
- (c) threatens any specific persons in general, with retaliation in any manner or by any means

whatsoever, in response to any act or alleged act of violence;

shall be guilty of an offence.

- (2) Any person who:
 - (a) performs any act which is aimed at causing, bringing about, promoting or contributing towards a pattern of criminal gang activity;
 - (b) incites, instigates, commands, aids, advise, encourages or procures any other person to commit, bring about, perform or participate in a pattern of criminal gang activity; or
 - (c) intentionally causes, encourages, recruits, incites, instigate, commands, aids or advises another person to join a criminal gang;

shall be guilty an offence.”

Penalties.

234.(1) Any person convicted of an offence provided in:

- (a) section 234(1) or (2)(a) shall be liable to a fine not exceeding six hundred thousand shillings or to imprisonment for a period not exceeding six years;
- (b) section 234(2)(b) or (c), shall be liable to a fine not exceeding three hundred thousand shillings or to imprisonment for a period not exceeding three years.

(2) If the offence contemplated in section 215A is committed on the premises or grounds of, or within 500 metres of a public or private school, or any other educational institution, during hours in which facility is open for classes or school related programmes or when minors are using the facility, such fact shall be regarded as an aggravating circumstance.

(3) If a court, after having convicted an accused of any offence, other than an offence contemplated in this Part, finds that the accused was a member of a criminal gang at the time of the commission of the offence, such finding shall be regarded as an aggravating circumstance for sentencing purposes.

Interpretation of member of criminal gang.

235. In considering whether a person is a member of a criminal gang for purposes of this Part the court may have regard to the following factors, namely that such person:

- (a) admits to criminal gang membership;
- (b) is identified as a member of a criminal gang by a parent or guardian;
- (c) resides in or frequents a particular criminal gang's area and adopts their style of dress, their use of hand signs, language or their tattoos, and associates with known members of a criminal gang;
- (d) has been arrested more than once in the company of identified members of a criminal gang for offences which are consistent with usual criminal gang activities;

is identified as a member of a criminal gang by physical evidence such as photographs or other documentation.

PART XXIII

CRIMINAL RECKLESSNESS AND NEGLIGENCE

Rash or negligent act causing death.

236. Any person who by rash or negligent act, not amounting to manslaughter, causes the death of another person is guilty a misdemeanour and is liable to imprisonment for a period not exceeding ten years or to a fine not exceeding ten million shillings or to both such fine and imprisonment.

Rash and negligent acts.

237. Any person who in a manner so rash or negligent as to endanger human life or to be likely to cause harm to any other person :

- (a) drives any vehicle or rides on any public way;
- (b) navigates, or takes part in the navigation or working of any vessel;
- (c) does any act with fire or combustible matter, or omits to take precautions against any probable danger from any fire or any combustible matter in his possession;

- (d) omits to take precautions against any probable danger from any animal in his possession;
- (e) omits to fence in or take other proper precautions against any probable danger from any well, tank or excavation in his possession or under his control;
- (f) gives medical or surgical treatment to any person whom he has undertaken to treat;
- (g) dispenses, supplies, sells, administers, or gives away any medicine or poisonous or dangerous matter;
- (h) does any act with respect to or omits to take proper precautions against any probable danger from any machinery of which he is solely or partly in charge; or
- (i) does any act with respect to, or omits to take precaution against any probable danger from any explosive in his possession;

is guilty of a misdemeanour.

Removal of tonsils.

238.(1) Any person, not being a qualified medical practitioner, who removes the tonsils of another person shall be guilty of an offence and shall on conviction be liable to imprisonment for a minimum term of five years.

(2) Where such removal of a person's tonsils directly causes his death, the person removing the tonsils shall be guilty of murder.

Removal of human organs.

239.(1) Any person, whether a qualified medical practitioner or not, who removes any human organ in the body of a person whether living or dead, without a consent of that person or a consent of the next of kin of the deceased person or of a child below the age of fourteen years shall be guilty of an offence and shall on conviction be liable to imprisonment for a term of twenty years.

(2) Where such removal of a person's human organ directly causes his death, the person removing the organ shall be guilty of murder.

Other negligent acts causing harm.

240. Any person who unlawfully does any act, or omits to do any act which it is his duty to do, not being an act or omission specified in section 237, by which act or omission harm is caused to any person, is guilty of a misdemeanour, and liable to imprisonment for a term not exceeding six months.

Dealings in poisonous substances in a negligent manner.

241. Whoever does, with any poisonous substance, any act in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such care with any poisonous substance in his possession as is sufficient to guard against probable danger to human life, is guilty of a misdemeanour, and is liable to imprisonment for a term not exceeding six months, or to a fine not exceeding five hundred thousand shillings.

Endangering safety of persons travelling by railway.

242. Any person who, by an unlawful act or omission not specified in section 223, causes the safety of any person travelling by any railway to be endangered, is guilty of a misdemeanour.

Exhibition of false lights, marks or buoy.

243. Any person who exhibits any false light, mark or buoy intending or knowing it to be likely that such exhibition will mislead any navigator, is liable to imprisonment for a term not exceeding seven years.

Conveying person by water for hire in unsafe or overloaded vessel.

244. Any person who knowingly or negligently conveys, or causes to be conveyed for hire, any person by water in any vessel, when that vessel is in such a state or so loaded as to be unsafe, is guilty of a misdemeanour.

Danger or obstruction in public way or line of navigation.

245. Any person who by doing any act, or by omitting to take reasonable care with any property in his possession, or under his charge, causes danger, obstruction or injury to any person in any public way or public line of navigation, is liable to a fine.

PART XXIV **ASSAULTS**

Common assault.

246. Any person who unlawfully assaults another is guilty of a misdemeanour, and, if the assault is not committed in

circumstances for which a greater punishment is provided in this Act, is liable to imprisonment for a term not exceeding one year.

Assault causing actual bodily harm.

247. Any person who commits an assault occasioning actual bodily harm is guilty of a misdemeanour, and is liable to imprisonment for a term not exceeding five years.

Assaults on person protecting wrecks.

248. Any person who assaults and strikes or wounds any magistrate officer, or other person lawfully authorised in or on account of the execution of his duty in or concerning the preservation of any vessel in distress, or of any vessel or goods or effects wrecked, stranded, or cast on shore, or lying under water, is guilty of a misdemeanour, and is liable to imprisonment for a term not exceeding seven years.

Assault punishable with five years imprisonment.

249. Any person who :

- (a) assaults any person with intent to commit a felony or to resist or prevent the lawful apprehension or detainer of himself or of any other person for any offence;
- (b) assaults, resists, or wilfully obstructs any police officer in the due execution of his duty, or any person in aid of such officer;
- (c) assaults any person in pursuance of any unlawful combination or conspiracy to raise the rate of wages, or respecting any trade, business, or manufacture or respecting any person concerned or employed therein;
- (d) assaults, resists, or obstructs any person engaged in lawful execution of process, or in making a lawful distress, with intent to rescue any property lawfully taken under such process or distress; or
- (e) assaults any person on account of any act done by him in the execution of any duty imposed on him by law;

is guilty of a misdemeanour and is liable to imprisonment for a term not exceeding five years.

PART XXV
OFFENCES AGAINST LIBERTY

- Definition of kidnapping from Zanzibar. 250. Any person who conveys any person beyond the limits of Zanzibar without the consent of that person, or of some person legally authorised to consent on behalf of that person, is said to kidnap that person from Zanzibar.
- Definition of kidnapping from lawful guardianship. Definition of kidnapping from lawful guardianship. 251. Any person who takes or entices any minor under fourteen years of age if a male, or under sixteen years of age if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship.
- Definition of abduction. 252. Any person who by force compels, or by any deceitful means induces, any person to go from any place, is said to abduct that person.
- Punishment for kidnapping. 253. Any person who kidnaps any person from Zanzibar or from lawful guardianship, is guilty of a felony, and is liable to imprisonment for a term not exceeding seven years.
- Kidnapping or abducting in order to murder. 254. Any person who kidnaps or abducts any person in order that such person may be murdered, or may be so disposed of as to be put in danger of being murdered, is guilty of a felony, and is liable to imprisonment for a term not exceeding ten years.
- Kidnapping or abducting with intent to confine person. 255. Any person who kidnaps or abducts any person with intent to cause that person to be secretly and wrongfully confined, is guilty of a felony, and is liable to imprisonment for a term not exceeding seven years.
- Kidnapping or abducting in order to subject person to grievous harm, slavery, etc. 256. Any person who kidnaps or abducts any person in order that such person may be subjected, or may be so disposed of as to be put in danger of being subjected to grievous harm, or slavery, or to the unnatural lust of any person, or knowing it to be likely that such person will be subjected or disposed of, is guilty of a felony and is liable to imprisonment for a term not exceeding ten years.

- Wrongfully concealing, etc., kidnapped or abducted person. 257. Any person who, knowing that any person has been kidnapped or has been abducted, wrongfully conceals or confines such person, is guilty of a felony, and shall be punished in the same manner as if he had kidnapped or abducted such person with the same intention or knowledge, or for the same purpose, as that with or for which he conceals or detains such person in confinement.
- Kidnapping or abducting child with intent to steal from its person. 258. Any person who kidnaps or abducts any child under the age of fourteen years with intention of taking dishonestly any movable property from the person of such child, is guilty of a felony, and is liable to imprisonment for a term not exceeding seven years.
- Wrongful restraint. 259. Any person who voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said wrongfully to restrain that person.
- Wrongful confinement. 260. Any person who wrongfully restrains any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits is said "wrongfully to confine" that person.
- Punishment for wrongful restraint. 261. Any person who wrongfully restrains any person is guilty of a misdemeanour, and is liable to imprisonment for a term not exceeding one month or to a fine not exceeding one hundred thousand shillings.
- Punishment for wrongful confinement. 262. Whoever wrongfully confines any person is guilty of a misdemeanour, and is liable to imprisonment for a term not exceeding one year or to a fine not exceeding four hundred thousand shillings.
- Buying or disposing of any person as slave. 263. Any person who imports, exports, removes, buys, sells or disposes of any person as a slave, or accepts, receives or detains any person as a slave, is guilty of a felony, and is liable to imprisonment for a term not exceeding seven years.
- Habitual dealing in slaves. 264. Any person who habitually imports, exports, removes, buys, sells, traffics or deals in slaves is guilty of a felony, and is liable to imprisonment for a term not exceeding ten years.
- Forced labour. 265. Any person who unlawfully compels any person to labour against the will of that person is guilty of a misdemeanour.

Division V. – Offences relating to property

PART XXVI

THEFT

Things capable
of being stolen.

266.(1) Every inanimate thing whatever which is the property of any person, and which is movable, is capable of being stolen.

(2) Every inanimate thing which is the property of any person, and which is capable of being made movable, is capable of being stolen as soon as it becomes movable, although it is made movable in order to steal it.

(3) Every tame animal, whether tame by nature or wild by nature and subsequently tamed, which is the property of any person, is capable of being stolen.

(4) Animals wild by nature, of a kind which is not ordinarily found in condition of natural liberty in Zanzibar, which are the property of any person, and which are usually kept in a state of confinement, are capable of being stolen, whether they are actually in confinement or have escaped from confinement.

(5) Animals wild by nature, of a kind which is ordinarily found in a condition of natural liberty in Zanzibar, which are the property of any person, are capable of being stolen while they are in confinement and while they are being actually pursued after escaping from confinement, but not at any other time.

(6) An animal wild by nature is deemed to be in a state of confinement so long as it is in a den, cage, sty, tank, or other small enclosure, or is otherwise so placed that it cannot escape, and that its owner can take possession of it at pleasure.

(7) Wild animals in the enjoyment of their natural liberty are not capable of being stolen, but their dead bodies are capable of being stolen.

(8) Everything produced by or forming part of the body of an animal capable of being stolen is capable of being stolen.

Definition of
theft.

267.(1) A person who fraudulently and without claim of right takes anything capable of being stolen, or fraudulently converts to the use of any person other than the general or special owner thereof anything capable of being stolen, is said to steal that thing.

(2) A person who takes or converts anything capable of being stolen is deemed to do so fraudulently if he does so with any of the following intents, that is to say :

- (a) an intent permanently to deprive the general or special owner of the thing of it;
- (b) an intent to use the thing as a pledge or security;
- (c) an intent to part with it on a condition as to its return which the person taking or converting it may be unable to perform;
- (d) an intent to deal with it in such manner that it cannot be returned in the condition in which it was at the time of the taking or conversion;
- (e) in the case of money, an intent to use it at the will of the person who takes or converts it, although he may intend afterwards to repay the amount to the owner.

(3) The term “special owner” includes any person who has any charge or lien upon the thing in question, or any right arising from or dependent upon holding possession of the thing in question.

(4) When a thing stolen is converted, it is immaterial whether it is taken for the purpose of conversion, or whether it is at the time of the conversion in the possession of the person who converts it. It is also immaterial that the person who converts the thing in question is the holder of a power of attorney for the disposition of it, or is otherwise authorised to dispose of it.

(5) When a thing converted has been lost by the owner and found by the person who converts it, the conversion is not deemed to be fraudulent if at the time of the conversion the person taking or converting the thing does not know who is the owner, and believes on reasonable grounds that the owner cannot be discovered.

(6) A person shall not be deemed to take a thing unless he moves the thing or causes it to move.

Special cases.

268.(1) When a factor or agent pledges or gives a lien on any goods or document of title to goods entrusted to him for the purpose of sale or otherwise for any sum of money not greater than the amount due to him from his principal at the time of pledging or giving the lien, together with the amount of any bill of exchange or promissory note accepted or made by him for or on account of his principal, such dealing with the goods or document of title is not deemed to be theft.

(2) When a servant, contrary to his master's orders, takes from his possession any food in order that it may be given to an animal belonging to or in the possession of his master, such taking is not deemed to be theft.

Funds, etc., held under direction.

269. When a person receives, either alone or jointly with another person, any money or valuable security or power of attorney for the sale, mortgage, pledge, or other disposition of any property, whether capable of being stolen or not, with a direction in either case that such money or any part thereof, or any other money received in exchange for it, or any part thereof, or the proceeds or any part of the proceeds of such security, or of such mortgage, pledge, or other disposition, shall be applied to any purpose or paid to any person specified in the direction, such money and proceeds are deemed to be the property of the person from whom the money, security, or power of attorney was received until that direction has been complied with.

Funds, etc., received by agents for sale.

270. When a person receives, either alone or jointly with another person, any property from another on terms authorising or requiring him to sell it or otherwise dispose of it, and requiring him to pay or account for the proceeds of the property, or any part of such proceeds, or to deliver anything received in exchange for the property, to the person from whom it is received, or some other person, then the proceeds of the property, and anything so received in exchange for it, are deemed to be the property of the person from whom the property was so received, until they have been disposed of in accordance with the terms on which the property was received, unless it is a part of those terms that the proceeds, if any, shall form an item in a debtor and creditor account between him and the person to whom he is to pay them on account for them, and that the relation of debtor and creditor only exist between them in respect thereof.

Money received from another. 271. When a person receives, either alone or jointly with another person, any money on behalf of another, the money is deemed to be the property of the person on whose behalf it is received, unless the money is received on the terms that it shall form an item in a debtor and creditor account, and that the relation of debtor and creditor only shall exist between the parties in respect of it.

Theft by persons having an interest in the thing stolen. 272. When any person takes or converts anything capable of being stolen, under such circumstances as would otherwise amount to theft, it is immaterial that he himself has a special property or interest therein, or that he himself is the owner of the thing taken or converted subject to some special property or interest of some other person therein, or that he is lessee of the thing, or that he himself is one of two or more joint owners of the thing, or that he is a director or officer of a corporation or company or society who are owners of it.

Husband and wife. 273. A person who, while a man and his wife are living together, procures either of them to deal with anything which is, to his knowledge, the property of the other in a manner which would be theft if they were not married, is deemed to have stolen the thing, and may be charged with theft.

General punishment for theft. 274.(1) Any person who steals anything capable of being stolen is guilty of the felony termed "theft", and is liable, unless owing to the circumstances of the theft or the nature of the thing stolen, some other punishment is provided, to imprisonment for three years.

Stealing Wills, postal matter, etc., or cattle. (2) If the thing stolen is:
(a) a testamentary instrument, whether the testator is living or dead;
(b) postal matter or any chattel, money, or valuable security contained in any postal matter; or
(c) a horse, mare, gelding, ass, mule, camel, ostrich, bull, cow, ox, ram, ewe, wether, goat or pig;

the offender is liable to imprisonment for a term not exceeding ten years.

Stealing from the person; stealing goods in transit, etc.

(3) If a theft is committed under any of the circumstances following, that is to say :

- (a) if the thing is stolen from the person of another;
- (b) if the thing is stolen in a dwelling-house, and its value exceeds one thousand shillings or the offender at or immediately before or after the time of stealing uses or threatens to use violence to any person in the dwelling-house;
- (c) if the thing is stolen from any kind of vessel or vehicle or place of deposit used for the conveyance or custody of goods in transit from one place to another;
- (d) if the thing stolen is attached to or forms part of a railway;
- (e) if the thing is stolen from a vessel, which is in distress or wrecked or stranded;
- (f) if the thing is stolen from a public office in which it is deposited or kept;
- (g) if the offender, in order to commit the offence, opens any locked room, box, or other receptacle, by means of a key or other instrument;
- (h) if the thing stolen is agricultural produce whether raw or wholly or partly manufactured or processed or livestock or livestock-product from a Government or State plantation;

the offender is liable to imprisonment for a term not exceeding seven years.

Stealing from the Government.

(4) If the thing stolen is the property of the Revolutionary Government of Zanzibar or its Public Enterprise, the Government of the Republic of Tanzania or its Public Corporation, or a company the shares of which are wholly or partly owned by the Government of Zanzibar and the value of such property exceeds one thousand shillings but does not exceed five hundred shillings the offender shall upon conviction be liable to be sent to an Educational Centre for a term of not

less than one year and not more than four years. Where the value of the property involved exceeds fifty thousand shillings, the offender shall upon conviction be liable to be sent to an Educational Centre for a term of not less than five years. In addition, the court shall order that the offender shall pay to the owner of the property compensation equal to the value of the property stolen if such property cannot be traced or returned.

Stealing by clerks or servants.

(5) If the offender is a clerk or servant, and the thing stolen is the property of his employer, or came into the possession of the offender on account of his employer, he is liable to imprisonment for a term not exceeding seven years.

Stealing by directors or officers of companies.

(6) If the offender is a director or officer of a corporation or company, and the thing stolen is the property of the corporation or company, he is liable to imprisonment for a term not exceeding seven years.

Stealing by agents, etc.

(7) If the thing stolen is any of the things following, that is to say :

- (a) property which has been received by the offender with a power of attorney for the disposition thereof;
- (b) property which has been entrusted to the offender either alone or jointly with any other person for him to retain in safe custody or to apply, pay, or deliver for any purpose or to any person the same or any part thereof or any proceeds thereof;
- (c) property which has been received by the offender either alone or jointly with any other person for or on account of any other person;
- (d) the whole or part of the proceeds of any valuable security which has been received by the offender with a direction that the proceeds thereof should be applied to any purpose or paid to any person specified in the direction;
- (e) the whole or part of the proceeds arising from any disposition of any property which have been received by the offender by virtue of a power of attorney for such disposition, such power of attorney having been received by the offender with a direction that such proceeds should be applied

to any purpose or paid to any person specified in the direction;

the offender is liable to imprisonment for a term not exceeding seven years.

Stealing by tenants or lodgers.

(8) If the thing stolen is a fixture or chattel let to the offender to be used by him with a house or lodging, and its value exceeds one hundred shillings, he is liable to imprisonment for a term not exceeding seven years.

Stealing after previous conviction.

(9) If the offender, before committing the theft, had been convicted of a theft punishable under subsection (1), he is liable to imprisonment for a term not exceeding seven years.

Stealing of Cloves.

(10) If cloves belonging to the Zanzibar Revolutionary Government and its parastatals are stolen, the offender shall on conviction be liable to the following penalties:

- (a) imprisonment for a term exceeding ten years.
- (b) While in the Educational Centre shall grow and nurse one hundred clove trees.

Stealing of Agricultural produce.

(11)(a) If the property stolen is an agricultural produce other than the Government property or its parastatals, the Government of the United Republic, the offender shall, upon conviction be liable to be sent to the Offenders Educational Centre for a term of not less than two years and shall, in addition to such penalty be required to pay, twice the market value of the produce stolen and the proceeds shall then be divided equally between the owner of the produce and the Government.

(b) Where the offender fails to pay the fine as provided in paragraph (a) of this subsection, he shall be liable to be sent to the Offenders Educational Centre for another period of six months.

(c) For the purpose of this subsection "agricultural produce" means a product obtained from any type of farming and includes paddy rice, millet, sorghum, maize, green gram, yams, bananas, potatoes, vegetables, coconuts, beans, pigeon peas, peas, mangoes, citrus fruits, lemons, oranges, bread fruits or the family of any of them and fowls, ducks and birds of the like character and includes raw or wholly or partially manufactured of any of them.

Forfeiture of building where stolen teak have been used in the construction.

275.(1) Where a person has been found guilty of theft of teak belonging to the Government and where the teak has been found used in any building the court shall in addition to passing any sentence order the forfeiture of the building to the Government.

(2) Where any stolen teak has been found used in the construction of any building the onus of giving satisfactory explanation as to how he came in possession of the teak shall be on the owner of the building.

PART XXVII

OFFENCES ALLIED TO STEALING

Concealing registers.

276. Any person who, with intent to defraud, conceals or takes from its place of deposit any register which is authorised or required by law to be kept for authenticating or recording the title to any property, or for recording births, baptisms, marriages, deaths or burials or a copy of any part of any such register which is required by law to be sent to any public office, is guilty of a felony, and is liable to imprisonment for a term not exceeding ten years.

Concealing wills.

277. Any person who, with intent to defraud, conceals any testamentary instrument, whether the testator is living or dead, is guilty of a felony, and is liable to imprisonment for a term not exceeding ten years.

Concealing deeds.

278. Any person who, with intent to defraud, conceals the whole or part of any document which is evidence of title to any land or estate in land, is guilty of a felony, and is liable to imprisonment for a term not exceeding three years.

Killing animal with intent to steal.

279. Any person who kills any animal capable of being stolen with intent to steal the skin or carcass, or any part of the skin or carcass, is guilty of an offence, and is liable to the same punishment as if he had stolen the animal.

Severing with intent to steal.

280. Any person who makes anything movable with intent to steal it is guilty of an offence, and is liable to the same punishment as if he had stolen the thing after it had become movable.

Fraudulent disposition of mortgaged goods.

281.(1) Any person who, being the mortgagor of mortgaged goods, removes or disposes of the goods without the consent of the mortgagee, and with intent to defraud, is guilty of a misdemeanour.

(2) In this section the term "mortgaged goods" includes any goods and chattels of any kind, and any animals, and any progeny of any animals, and any crops or produce of the soil, whether growing or severed, which are subject for the time being, by virtue of the provisions of any Act or of any written instrument, to a valid charge or lien by way of security for any debt or obligation.

Fraudulent dealing with minerals in mines.

282. Any who takes, conceals, or otherwise disposes of any ore or any metal or mineral in or about a mine, with intent to defraud any person, is guilty of a felony, and is liable to imprisonment for a term not exceeding five years.

Fraudulent appropriation of power.

283. Any person who fraudulently abstracts or diverts to his own use or to the use of any other person any mechanical, illuminating, or electrical power derived from any machine, apparatus, or substance, the property of another person, is guilty of a felony, and is liable to imprisonment for a term not exceeding five years.

Conversion not amounting to theft.

284. Any person who unlawfully and without colour of right, but not so as to be guilty of stealing, takes or converts to his use or to the use of any other person any draught or riding animal or any vehicle or cycle however propelled, or any vessel shall be guilty of a misdemeanour, and shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding five hundred thousand shilling or to both such fine and imprisonment.

PART XXVIII

ROBBERY AND EXTORTION

Definition of robbery.

285. Any person who steals anything, and, at or immediately before or immediately after the time of stealing it, uses or threatens to use actual violence to any person or property in order to obtain or retain the thing stolen or to prevent or overcome resistance to its being stolen or retained, is guilty of the felony termed "robbery".

Punishment of robbery.

286.(1) Any person who commits the felony of robbery is liable to imprisonment for a term not exceeding twenty-five years.

(2) If the offender is armed with any dangerous or offensive weapon or instrument, or is in company with one or more other person or persons, or if, at or immediately after the time of the robbery, he wounds, beats, strikes, or uses any other personal violence to any person, he is liable to imprisonment for life.

Attempted robbery.

287.(1) Any person who assaults any person with intent to steal anything, and, at or immediately before or immediately after the time of the assault, uses or threatens to use actual violence to any person or property in order to obtain the thing intended to be stolen, or to prevent or overcome resistance to its being stolen, is guilty of a felony, and is liable to imprisonment for a term not exceeding ten years.

(2) If the offender is armed with any dangerous or offensive weapon or instrument, or is in company with one or more other person or persons, or if, at or immediately after the time of the robbery, he wounds, beats, strikes, or uses any other personal violence to any person, he is liable to imprisonment for life.

Assault with intent to steal.

288. Any person who assaults any person with intent to steal anything is guilty of a felony, and is liable to imprisonment for a term not exceeding seven years.

Demanding property by written threats.

289. Any person who, with intent to extort or gain anything from any person, and knowing the contents of the writing, causes any person to receive any writing demanding anything from any person without reasonable or probable cause, and containing threats of any injury or detriment of any kind to be caused to any person, either by the offender or any other person, if the demand is not complied with, is guilty of a felony, and is liable to imprisonment for a term not exceeding fourteen years.

Attempt at extortion by threats.

290.(1) Any person who, with intent to extort or gain anything from any person:

- (a) accuses or threatens to accuse any person of committing any felony or misdemeanour, or of offering or making any solicitation or threat to any person as an inducement to commit or permit the commission of any felony or misdemeanour;

- (b) threatens that any person shall be accused by any other person of any felony or misdemeanour, or of any such act; or
- (c) knowing the contents of the writing, causes any person to receive any writing containing any such accusation or threats as aforesaid;

is guilty of a felony, and if the accusation or threat of accusation is of –

- (d) an offence for which the punishment of death or imprisonment for life may be inflicted;
- (e) any of the offences defined in Part XV or an attempt to commit any of such offences;
- (f) an assault with intent to have carnal knowledge of any person against the order of nature, or an unlawful and indecent assault upon a male person; or
- (g) a solicitation or threat offered or made to any person as an inducement to commit or permit the commission of any of the offences aforesaid;

the offender is liable to imprisonment for a term not exceeding fourteen years.

(2) In any other case the offender is liable to imprisonment for a term not exceeding three years.

(3) It is immaterial whether the person accused or threatened to be accused has or has not committed the offence or act of which he is accused or threatened to be accused.

Procuring execution of deed, etc., by threats.

291. Any person who, with intent to defraud, and by means of any unlawful violence to, or restraint of, the person of another, or by means of any threat of violence or restraint to be used to the person of another, or by means of accusing or threatening to accuse any person of committing any felony or misdemeanour, or by offering or making any solicitation or threat to any person as an inducement to commit or permit the commission of any offence, compels or induces any person:

- (a) to execute, make, accept, indorse, alter, or destroy the whole or any part of any valuable security; or
- (b) to write any name or impress or affix any seal upon or to any paper or parchment, in order that it may be afterwards made or converted into or used or dealt with as a valuable security,

is guilty of a felony and is liable to imprisonment for a term not exceeding fourteen years.

Demanding thing with menaces with intent to steal.

292. Any person who, with intent to steal any valuable thing, demands it from any person with menaces or force, is guilty of a felony, and is liable to imprisonment for a term not exceeding five years.

Dishonest misappropriation of property.

293. Any person who dishonestly misappropriates or converts to his own use any movable property, shall be liable on conviction to imprisonment for a term not exceeding two years, or with fine not exceeding two hundred thousand shillings, or with both.

Dishonest misappropriation of property possessed by deceased person.

294. Any person who dishonestly misappropriates or converts to his own use property, knowing that such property was in the possession of a deceased person at that time of that person's death, and has not since been in the possession of any person legally entitled to such possession, shall be liable on conviction to imprisonment for a term not exceeding three years, or with fine not exceeding three hundred thousand shillings; and if the offender at the time of such person's death was employed by him as clerk or servant the imprisonment may extend to seven years.

Criminal breach of trust.

295. Any person who, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits "criminal breach of trust shall be liable on conviction to imprisonment for a term not exceeding three years, or with fine not exceeding three hundred thousand shillings, or with both.

PART XXIX
BURGLARY, HOUSEBREAKING AND SIMILAR OFFENCES

Definition of breaking and entering.

296.(1) A person who breaks any part, whether external or internal, of a building, or opens by unlocking, pulling, pushing, lifting, or any other means whatever, any door, window, shutter, cellar flap, or other thing, intended to close or cover an opening in a building, or an opening giving passage from one part of a building to another, is deemed to break the building.

(2) A person is deemed to enter a building as soon as any part of his body or any part of any instrument used by him is within the building.

(3) A person who obtains entrance into a building by means of any threat or artifice used for that purpose, or by collusion with any person in the building, or who enters any aperture of the building left open for any purpose, but not intended to be ordinarily used as a means of entrance, is deemed to have broken and entered the building.

Housebreaking and burglary.

297.(1) Any person who –

- (a) breaks and enters any building, tent or vessel used as a human dwelling with intent to commit a felony therein; or
- (b) having entered any building, tent or vessel used as a human dwelling with intent to commit a felony therein, or having committed a felony in any such building, tent or vessel, breaks out thereof;

is guilty of the felony termed “housebreaking” and is liable to imprisonment for a term not exceeding ten years.

(2) If the offence is committed in the night, it is termed “burglary” and the offender is liable to imprisonment for a term not exceeding fifteen years.

Entering dwelling-house with intent to commit felony.

298.(1) Any person who enters or is in any building, tent or vessel used as a human dwelling with intent to commit a felony therein, is guilty of a felony, and is liable to imprisonment for a term not exceeding ten years.

(2) If the offence is committed in the night, the offender is liable to imprisonment for a term not exceeding twelve years.

Breaking into building and committing felony.

299. Any person who :

- (a) breaks and enters a schoolhouse, shop, warehouse, store, office, counting-house, garage, pavilion, club, factory or workshop, or any building belonging to the Government of Zanzibar, a Government department, or to any municipal or other public authority, or a building which is adjacent to a dwelling-house and occupied with it, but is not part of it, or any building used as a place of worship and commits a felony therein; or
- (b) breaks out of the same having committed any felony therein;

is guilty of felony and liable to imprisonment for a term not exceeding twelve years.

Breaking into building with intent to commit felony.

300. Any person who breaks and enters a schoolhouse, shop, warehouse, store, office, counting-house, garage, pavilion, club, factory or workshop, or any building belonging to the Government of Zanzibar, a Government department, or to any municipal or other public authority, or a building which is adjacent to a dwelling-house and occupied with it, but is not part of it, or any building used as a place of worship, with intent to commit a felony therein, is guilty of a felony and is liable to imprisonment for a term not exceeding ten years.

Persons found armed, etc., with intent to commit felony.

301.(1) Any person who is found under any of the circumstances, that is to say :

- (a) being armed with any dangerous or offensive weapon or instrument, and being so armed with intent to break or enter a dwelling-house and to commit a felony therein;
- (b) being armed as aforesaid by night, and being so armed with intent to break or enter any building whatever, and to commit a felony therein;
- (c) having in his possession by night without lawful excuse, the proof of which lies on him, any instrument of housebreaking;

- (d) having in his possession by day any such instrument with intent to commit a felony;
- (e) having his face masked or blackened or being otherwise disguised, with intent to commit a felony;
- (f) being in any building whatever by night with intent to commit a felony therein;
- (g) being in any building whatever by day with intent to commit a felony therein, and having taken precautions to conceal his presence;

is guilty of a felony, and is liable to imprisonment for a term not exceeding seven years.

(2) If the offender has been previously convicted of a felony relating to property, he is liable to imprisonment for a term not exceeding ten years.

Criminal
trespass.

302.(1) Any person who :

- (a) enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property; or
- (b) having lawfully entered into or upon such property unlawfully remains there with intent thereby to intimidate, insult or annoy any such person or with intent to commit any offence; or
- (c) unlawfully enters any place while a party, dance or other occasion is due to commence or is in progress without paying any entrance fee that is payable or who loiters or unlawfully remains within twenty yards of any such place;

is guilty of the misdemeanour termed "criminal trespass" and is liable to imprisonment for a term not exceeding three months or to a fine not exceeding two hundred and fifty thousand shillings or to both such fine and imprisonment.

(2) If the property upon which the offence is committed is any building, tent or vessel used as a human dwelling or any building used as a place of worship or as a place for the custody of property, the offender is liable to imprisonment for a term not exceeding one year.

Forfeiture.

303. When any person is convicted of an offence under this Part the court may order that any dangerous or offensive weapon or instrument of housebreaking carried or used in connection with any such offence shall be forfeited to the Government of Zanzibar.

PART XXX **FALSE PRETENCES**

Definition of false pretence.

304. Any representation made by words, writing or conduct, of a matter of fact, either past or present, which representation is false in fact, and which the person making it knows to be false or does not believe to be true, is a false pretence.

Obtaining goods by false pretences.

305. Any person who by any false pretence, and with intent to defraud, obtains from any other person anything capable of being stolen or induces any other person to deliver to any person anything capable of being stolen, is guilty of a misdemeanour, and is liable to imprisonment for a term not exceeding three years.

Obtaining execution of security by false pretences.

306. Any person who by any false pretence, and with intent to defraud, induces any person to execute, make, accept, indorse, alter, or destroy, the whole or any part of any valuable security or to write any name or impress or affix any seal upon or to any paper or parchment in order that it may be afterwards made or converted into or used or dealt with as valuable security, is guilty of a misdemeanour, and is liable to imprisonment for a term not exceeding three years.

Cheating.

307. Any person who by means of any fraudulent trick or device obtains from any other person anything capable of being stolen or induces any other person to deliver to any person anything capable of being stolen or to pay or deliver to any person any money or goods or any greater sum of money or greater quantity of goods than he would have paid or delivered but for such trick or device, is guilty of a misdemeanour, and is liable to imprisonment for a term not exceeding three years.

Obtaining credit,
etc., by false
pretences.

308. Any person who :
- (a) in incurring any debt or liability obtains credit by any false pretence or by means of any other fraud;
 - (b) with intent to defraud his creditors or any of them makes or causes to be made any gift, delivery, or transfer of or any charge of his property; or
 - (c) with intent to defraud his creditors or any of them, conceals, sells or removes any part of his property after or within two months before the date of any unsatisfied judgment or order for payment of money obtained against him;

is guilty of a misdemeanour, and is liable to imprisonment for a term not exceeding one year.

Conspiracy to
defraud.

309. Any person who conspires with another by deceit or any fraudulent means to affect the market price of anything publicly sold, or to defraud the public of any person, whether a particular person or not, or to extort any property from any person, is guilty of a misdemeanour, and is liable to imprisonment for a term not exceeding three years.

Frauds on sale
of mortgage of
property.

310. Any person who, being the seller or mortgagor of any property or being the advocate or agent of any such seller or mortgagor, with intent to induce the purchaser or mortgagee to accept the title offered or produced to him, and with intent to defraud :

- (a) conceals from the purchaser or mortgagee any instrument material to the title, or any encumbrance;
- (b) falsifies any pedigree on which the title depends or may depend; or
- (c) makes any false statement as to the title offered or conceals any fact material thereto;

is guilty of a misdemeanour, and is liable to imprisonment for a term not exceeding two years.

Pretending to tell fortunes.

311. Any person who for gain or reward pretends to exercise or use any kind of witchcraft, sorcery, enchantment, or conjuration, or undertakes to tell fortunes, or pretends from his skill or knowledge in any occult science to discover where or in what manner anything supposed to have been stolen or lost may be found, is guilty of a misdemeanour.

Obtaining registration, etc., by false pretence.

312. Any person who wilfully procures or attempts to procure for himself or any other person any registration, licence or certificate under any law by any false pretence, is guilty of a misdemeanour, and is liable to imprisonment for a term not exceeding one year.

False declaration for passport.

313. Any person who makes a statement which is to his knowledge untrue for the purpose of procuring a passport, whether for himself or for any other person, is guilty of a misdemeanour.

PART XXXI
RECEIVING PROPERTY STOLEN OR UNLAWFULLY
OBTAINED AND LIKE OFFENCES

Receiving.

314.(1) Any person who receives or retains any property knowing or having reason to believe the same to have been stolen, obtained or disposed of in any way whatsoever by an act which constitutes a felony or misdemeanour shall be guilty of an offence of the like degree (whether felony or misdemeanour) and shall be liable :

(a) in the case of a felony to imprisonment for a term not exceeding fourteen years;

(b) in the case of misdemeanour, to imprisonment for a term not exceeding seven years.

(2) Any person who assists in concealing or disposing of any property knowing or having reason to believe the same to have been stolen, obtained or disposed of in any way whatsoever by an act which constitutes a felony or misdemeanour shall be guilty of a misdemeanour and liable to imprisonment for a term not exceeding three years.

(3) No person shall, unless he pleads guilty, be convicted of an offence under this section unless it be proved that the property which is the subject matter of the charge has in

fact been stolen, obtained or disposed of by an act which constitutes a felony or misdemeanour.

(4) For the purposes of this section it shall be immaterial whether the act by which such property has been stolen, obtained or disposed of was committed within or without Zanzibar or in a place not ascertained, if such act would if committed within Zanzibar, constitute a felony or misdemeanour.

Persons
suspected of
having or
conveying
stolen property.

315. Any person who has been detained as the result of the exercise of the powers conferred by section of the Criminal Procedure Act and is brought before a court charged with having in his possession or conveying in any manner anything which may reasonably be suspected of having been stolen or unlawfully obtained, and who shall not give an account to the satisfaction of the court of how he came by the same, is guilty of a misdemeanour.

Being in
possession of
stolen property.

316.(1) Any person who is found by any police officer in possession of or having control over any property which may, having regard to all the circumstances, be reasonably suspected of having been stolen or otherwise unlawfully acquired, may be charged with being in possession of, or conveying or having control over, as the case may be, the property which is suspected of having been stolen or otherwise unlawfully acquired and shall, if he fails to satisfy the court that he did not steal or otherwise unlawfully acquire the property, be guilty of the offence with which he is charged and be liable on conviction to be sent to an Educational Centre for a term exceeding three years but not exceeding ten years or to a fine exceeding fifty thousand shillings but not exceeding one hundred and fifty thousand shillings or to both such imprisonment and fine and in addition, the court shall order the forfeiture to the Government of any property which has passed in connection with the commission of the offence, or if such property cannot be forfeited or cannot be found, of such sum as the court shall assess as the value of the property. Unless otherwise ordered by the court in respect of such property forfeited to the Government no claim by any other individual against the Government for the property shall be entertained.

(2) For the purposes of this section "unlawfully acquired" means acquired in circumstances which constitute contravention of any provision of any law made in accordance with Government policy.

Hoarding.

317.(1) Any person who:

- (a) carries on the business of selling goods of any description either wholesale or retail and having such goods in stock, refuses to sell the whole or any quantity thereof to any person offering to purchase the same; or
- (b) otherwise not carrying on the business of wholesale or retail has in stock or in possession of goods of any description in quantity which under the relevant circumstances is above the normal person household requirement,

shall be guilty of an offence and shall be liable on conviction to be committed to an Educational Centre for a term of not less than seven years or to a fine of not less than fifty thousand shillings or to both such confinement at an Educational Centre and such fine. In addition, the court shall order all the goods involved in the charge to be forfeited.

(2) For the purpose of this section:

- (a) a person who carries on the business of selling goods of any description”, means and includes any agent or employee of such person;
- (b) a person shall be deemed to be carrying on the business of selling goods of any description if:
 - (i) at any time within the period covered under the charge when the offence with which he is alleged to have committed has sold or offered for sale such goods; or
 - (ii) at any time within the period referred to in paragraph (i) above held himself out as being a person carrying on the business of selling such goods; or
 - (iii) being a person licensed to carry on wholesale or retail business had, at the time of the offence possession of any quantity of such goods in circumstances in which, in the opinion of the court, it may reasonably

be inferred that such goods were intended by him to be sold in the course of his business.

(3) A person shall be deemed to have in stock or to be in possession of goods of any description:

- (i) if he has any quantity of such goods in any premises under his control or management; or
- (ii) if he is the owner of any quantity of such goods or has all the right to dispose of by sale any quantity of such goods.

(4) A person shall be deemed to have refused to sell any goods where he offered the goods for sale at a price or subject to a term or condition which, in the opinion of the court, having regard to all the relevant circumstances was unreasonable.

Being in possession of property stolen outside Zanzibar.

318. Any person who, without lawful excuse, has in his possession any property knowing or having reason to believe the same to have been stolen, obtained or disposed of in any way whatsoever outside Zanzibar by an act which, if it had been committed in Zanzibar, would have constitutes a felony or misdemeanour, is guilty of an offence of the like degree (whether felony or misdemeanour) and is liable to imprisonment for a term not exceeding seven years.

PART XXXII
FRAUD BY TRUSTEES AND PERSONS IN A POSITION OF TRUST, AND FALSE ACCOUNTING

Trustees fraudulently disposing of trust property.

319.(1) Any person who, being a trustee of any property, destroys the property with intent to defraud, or, with intent to defraud, converts the property to any use not authorised by the trust, is guilty of a felony, and is liable to imprisonment for a term not exceeding seven years.

(2) For the purpose of this section the term “trustee” includes the following persons and no others, that is to say :

- (a) trustees upon express trusts created by a deed, will, or instrument in writing, whether for a public or private or charitable purpose;

- (b) trustees appointed by or under the authority of an Act or Statute for any such purpose;
 - (c) the heir or personal representative of any trustee as aforesaid and any other person upon or to whom any such trust shall devolve or come;
 - (d) executors including executors *de son tort* and administrators;
 - (e) managers appointed under the authority of the Mental Patients Act;
 - (f) official managers, assignees, liquidators or other like officers, by whatsoever name called, acting under the authority of any Act relating to bankruptcy or insolvency or joint stock companies.
- Misappropriation and fraud by directors, and officers of corporations, etc.
320. Any person who :
- (a) being a director or officer of a corporation or company, receives or possesses himself as such of any property of the corporation or company otherwise than in payment of a just debt, or demand, and, with intent to defraud, omits either to make a full and true entry thereof in the books and accounts of the corporation or company, or to cause or direct such an entry to be made therein; or
 - (b) being a director, officer, or member of a corporation or company, does any of the following acts with intent to defraud, that is to say –
 - (i) destroys, alters, mutilates or falsifies any book, document, valuable security or account, which belongs to the corporation or company, or any entry in any such book, document, or account, or is privy to any such act;
 - (ii) makes, or is privy to omitting, any material particular from any such book, document or account;
 - (iii) omits, or is privy to omitting, any material particular from any such book, document or account;

is guilty of a felony, and is liable to imprisonment for a term not exceeding seven years.

False statements by officials of companies.

321. Any person who, being a promoter, director, officer or auditor of a corporation or company, either existing or intended to be formed, makes, circulates or publishes, or concurs in making, circulating, or publishing, any written statement or account which, in any material particular, is to his knowledge false, with intent thereby to effect any of the purposes following, that is to say ;

- (a) to deceive or to defraud any member, shareholder, or creditor of the corporation or company, whether a particular person or not;
- (b) to induce any person, whether a particular person or not, to become a member of, or to entrust or advance any property to, the corporation or company, or to enter into any security for the benefit thereof;

is guilty of a felony, and is liable to imprisonment for a term not exceeding seven years.

False statements by officials of companies.

322. Any person who, being a clerk or servant, or being employed or acting in the capacity of a clerk or servant, does any of the acts following with intent to defraud, that is to say :

- (a) destroys, alters, mutilates or falsifies any book, document, valuable security or account which belongs to or is in the possession of his employer, or any entry in any such book, document or account, or is privy to any such act;
- (b) makes, or is privy to making, any false entry in any such book, document, or account;
- (c) omits, or is privy to omitting, any material particular from any such book, document or account;

is guilty of a felony, and is liable to imprisonment for a term not exceeding seven years.

False accounting by public officer.

323. Any person who, being an officer charged with the receipt, custody or management of any part of the public revenue or property, knowingly furnishes any false statement or

return of any money or property received by him or entrusted to his care, or of any balance of money or property in his possession or under his control, is guilty of a misdemeanour.

Division VI. – Malicious injuries to Property

PART XXXIII

OFFENCES CAUSING INJURY TO PROPERTY

- Arson. 324. Any person who wilfully and unlawfully sets fire to :
- (a) any building or structure whatever, whether completed or not;
 - (b) any vessel whether completed or not;
 - (c) any stack of cultivated vegetable produce, or of mineral or vegetable fuel; or
 - (d) a mine, or the workings, fittings, or appliances of a mine;
- is guilty of a felony, and is liable to imprisonment for life.
- Attempts to commit arson. 325. Any person who:
- (a) attempts unlawfully to set fire to any such thing as is mentioned in section 324; or
 - (b) wilfully and unlawfully sets fire to anything which is so situated that any such thing as is mentioned in section 324 is likely to catch fire from it;
- is guilty of a felony, and is liable to imprisonment for a term not exceeding fourteen years.
- Setting fire to crops and growing plants. 326. Any person who wilfully and unlawfully sets fire to:
- (a) a crop of cultivated produce, whether standing, picked or cut;
 - (b) a crop of hay or grass under cultivation, whether natural or indigenous product of the soil or not, and whether standing or cut; or

- (c) any standing trees, saplings, or shrubs, whether indigenous or not, under cultivation;

is guilty of a felony, and is liable to imprisonment for a term not exceeding fourteen years.

Attempts to set fire to crops, etc.

327. Any person who:

- (a) attempts unlawfully to set fire to any such thing as is mentioned in section 326; or
- (b) wilfully and unlawfully sets fire to anything which is so situated that any such thing as is mentioned in section 326 is likely to catch fire from it,

is guilty of a felony, and is liable to imprisonment for a term not exceeding seven years.

Casting away vessels.

328. Any person who:

- (a) wilfully and unlawfully casts away or destroys any vessel, whether completed or not;
- (b) wilfully and unlawfully does any act which tends to the immediate loss or destruction of a vessel in distress; or
- (c) with intent to bring a vessel into danger, interferes with any light, beacon, buoy, marks, or signal used for the purposes of navigation, or exhibits any false light or signal;

is guilty of a felony, and is liable to imprisonment for a term not exceeding fourteen years.

Attempts to cast away vessels.

329. Any person who attempts unlawfully to cast away or destroy a vessel whether completed or not, or attempts unlawfully to do any act tending to the immediate loss or destruction of a vessel in distress, is guilty of a felony, and is liable to imprisonment for a term not exceeding seven years.

Injuring animals.

330. Any person who wilfully and unlawfully kills, maims or wounds any animal capable of being stolen is guilty of a misdemeanour.

Punishment for malicious injuries.

331.(1) Any person who wilfully and unlawfully destroys or damages any property is guilty of an offence, which, unless otherwise stated, is a misdemeanour, and he is liable, if no other punishment is provided, to imprisonment for a term not exceeding two years.

(2) If the property in question is a dwelling-house or a vessel and the injury is caused by the explosion of any explosive substance, and if :

- (a) any person is in the dwelling-house or vessel; or
- (b) the destruction or damage actually endangers the life of any person;

the offender is guilty of a felony, and is liable to imprisonment for life

(3) (a) If the property in question is a bank or wall of a river, canal, aqueduct, reservoir, or inland water, or work which appertains to a dock, reservoir, or inland water, and the injury causes actual danger or inundation or damage to any land or building; or

(b) If the property in question is a railway or is a bridge, viaduct, or aqueduct which is constructed over a highway, railway, or canal, or over which a railway, highway, or canal passes, and the property is destroyed; or

(c) If the property in question, being a railway or being any such bridge, viaduct, or aqueduct, is damaged and the damage is done with intent to render the railway, bridge, viaduct, or aqueduct, or the highway, or canal passing over or under the same or any part thereof, dangerous or impassable, and the same or any part thereof is thereby rendered dangerous or impassable;

the offender is guilty of a felony, and is liable to imprisonment for life.

(4) If the property in question is a testamentary instrument, whether the testator is living or dead, or a register which is authorised or required by law to be kept for authenticating or recording the title of any property, or for recording births, baptisms, marriages, deaths, or burials, or a copy of any part of any such register which is required by law to

be sent to any public officer, the offender is guilty of a felony, and is liable to imprisonment for a term not exceeding fourteen years.

(5) If the property in question is a vessel in distress or wrecked, or stranded, or anything which belongs to such vessel, the offender is guilty of a felony, and is liable to imprisonment for a term not exceeding seven years.

(6) If the property in question is any part of a railway, or any work connected with a railway, the offender is guilty of a felony, and is liable to imprisonment for a term not exceeding fourteen years.

(7) (a) If the property in question, being a vessel, whether completed or not, is destroyed; or

(b) If the property in question, being a vessel whether completed or not, is damaged, and the damage is done with intent to destroy it or render it useless; or

(c) If the property in question is a light, beacon, buoy, mark, or signal, used for the purpose of navigation, or for the guidance of persons engaged in navigation; or

(d) If the property in question is a bank or wall of a river, canal, aqueduct, reservoir, or inland water, or a work which appertains to a dock, canal, aqueduct, reservoir, or inland water, or which is used for the purposes of lading or unloading goods; or

(e) If the property in question, being a railway, or being a bridge, viaduct, or aqueduct which is constructed over a highway, railway, or canal, or over which a highway, railway, or canal passes, is damaged, and the damage is done with intent to render the railway, bridge, viaduct, or aqueduct, or the highway, railway, or canal passing over or under the same, or any part thereof, dangerous or impassable; or

(f) If the property in question, being anything in process of manufacture, or an agricultural or manufacturing machine, or a manufacturing implement, or a machine or appliance used or intended to be used for performing any process connected with the preparation of any agricultural or pastoral produce, is destroyed; or

(g) If the property in question, being any such thing, machine, implement, or appliance, as last aforesaid, is damaged, and the damage is done with intent to destroy the thing in question or to render it useless; or

(h) If the property in question is a shaft or passage of a mine, and the injury is done with intent to damage the mine or to obstruct its working; or

(i) If the property in question is a machine, appliance, apparatus, building, erection, bridge, or road, appertaining to or used with a mine, whether the thing in question is completed or not; or

(j) If the property in question, being a rope, chain, or tackle, of whatever material, which is used in a mine, or upon any way or work appertaining to or used with a mine, is destroyed; or

(k) If the property in question, being any such rope, chain, or tackle, as last aforesaid, is damaged, and the damage is done with intent to destroy the thing in question or to render it useless; or

(l) If the property in question is a well, or bore for water, or the dam, bank, wall, or floodgate of a millpond or pool;

the offender is guilty of a felony, and is liable to imprisonment for a term not exceeding seven years.

(8) If the property in question is a document which is deposited or kept in a public office, or which is evidence of title to any land or estate in land, the offender is guilty of a felony, and is liable to imprisonment for a term not exceeding seven years.

Attempts to destroy property by explosives.

332. Any person who, unlawfully and with intent to destroy or damage any property puts any explosive substance in any place whatever, is guilty of a felony, and is liable to imprisonment for a term not exceeding fourteen years.

Communicating infectious diseases among animals.

333. Any person who wilfully and unlawfully causes, or is concerned in causing, or attempts to cause, any infectious disease to be communicated to or among any animal or animals capable of being stolen, is guilty of a felony, and is liable to imprisonment for a term not exceeding seven years.

Removing boundary marks with intent to defraud.

334. Any person who wilfully and unlawfully, and with intent to defraud, removes or defaces any object or mark which has been lawfully erected or made as an indication of the boundary of any land, is guilty of a felony, and is liable to imprisonment for a term not exceeding three years.

Wilful damage, etc., to survey and boundary marks.

335. Any person who:

- (a) wilfully removes, defaces or injures any survey mark or boundary marks made or erected by or under the direction of any Government department or in the course of or for the purposes of a Government survey;
- (b) being under an obligation to maintain in repair any boundary mark made or erected as aforesaid, neglects or refuses to repair the same;
- (c) wilfully removes, defaces, or injures any survey mark erected by or under the authority of any licensed surveyor or any mark erected by an intending applicant for any lease, licence or right under an Act relating to mines or minerals; or
- (d) wilfully removes, defaces or injures any mark erected by an intending applicant for any lease, licence or right under an Act relating to mines or minerals;

is guilty of a misdemeanour, and is liable to imprisonment for a term not exceeding three months or to a fine not exceeding two hundred and fifty thousand shillings, and may further be ordered by the court to pay the cost of repairing or replacing the survey mark or boundary mark and of making any survey rendered necessary by the offender's act or neglect.

Penalties for damage, etc., to railway works.

336. Any person who:

- (a) wilfully damages, injures, or obstructs any work, way, road, building, turnstile, gate, toll bar, fence, weighing machine, engine, tender, carriage, wagon, truck, material, or plant acquired for or belonging to any railway works;
- (b) pulls up, removes, defaces, or destroys, or in any way interferes with, any poles, stakes, flags, pegs,

lines, marks, or anything driven or placed in or upon the ground, trees, stones, or buildings, or any other material, belonging to any railway works;

- (c) commits any nuisance or trespass in or upon any land, buildings, or premises, acquired for or belonging to any railway works; or
- (d) wilfully molests, hinders, or obstructs the officer in charge of any railway or his assistants or workmen in the execution of any work done or to be done in reference to the construction or maintenance of any such railway;

is guilty of a misdemeanour, and is liable to imprisonment for a term not exceeding three months or to a fine not exceeding two hundred and fifty thousand shillings.

Threats to burn,
etc.

337. Any person who, knowing the contents thereof, sends, delivers, utters or directly or indirectly causes to be received any letter or writing threatening to burn or destroy any house, barn, or other building, or any rick or stack of grain, hay, or straw, or other agricultural produce, whether in or under any building or not, or any vessel or to kill, maim, or wound any cattle, is guilty of a felony, and is liable to imprisonment for a term not exceeding seven years.

***Division VII. – Forgery, Coining, Counterfeiting and
Similar Offences***

**PART XXXIV
DEFINITIONS**

Definition of
forgery.

338. Forgery is the making of a false document with intent to defraud or to deceive.

Documents.

339. The term “document” in this Division of this Act includes a money order or a postal order but does not include a trade mark or any other sign used in connection with articles of commerce though they may be written or printed.

Making a false
document.

340. Any person makes a false document who:
- (a) makes a document purporting to be what in fact it is not;

- (b) alters a document without authority in such a manner that if the alteration had been authorised it would have altered the effect of the document;
- (c) introduces into a document without authority whilst it is being drawn up a matter which if it had been authorised would have altered the effect of the document; or
- (d) signs a document:
 - (i) in the name of any person without his authority whether such name is or is not the same as that of the person signing;
 - (ii) in the name of any fictitious person alleged to exist whether the fictitious person is or is not alleged to be of the same name as the person signing;
 - (iii) in the name represented as being the name of a different person from that of the person signing it and intended to be mistaken for the name of that person; or
 - (iv) in the name of a person personated by the person signing the document, provided that the effect of the instrument depends upon the identity between the person signing the document and the person whom he professes to be.

Intent to defraud 341. An intent to defraud is presumed to exist if it appears that at the time when a false document was made there was in existence a specific person ascertained or unascertained capable of being defrauded thereby, and this presumption is not rebutted by proof that the offender took or intended to take measures to prevent such person from being defrauded in fact nor by the fact that he had or thought he had a right to the thing to be obtained by the false document.

PART XXXV
PUNISHMENT FOR FORGERY

General punishment for forgery. 342.(1) Any person who forges any document is guilty of an offence which, unless otherwise stated, is a felony, and he is liable, unless owing to the circumstances of the forgery or the

nature of the thing forged some other punishment is provided, to imprisonment for a term not exceeding three years.

Forgeries punishable by imprisonment for life.

(2) Any person who forges any will, document of title to land, judicial record, power of attorney, bank note, currency note, bill of exchange, promissory note or other negotiable instrument, policy of insurance, cheque or other authority for the payment of money by a person carrying on business as a banker, is liable to imprisonment for life and the court may in addition order that any such document as aforesaid shall be forfeited to the Government of Zanzibar.

Forgery of judicial or official document.

(3) Any person who forges any judicial or official document is liable to imprisonment for a term not exceeding seven years.

Forgeries punishable by imprisonment for seven years.

(4) Any person who :

(a) forges any stamp whether impressed or adhesive used for the purposes of revenue or accounting by any Government department;

(b) without lawful excuse, the proof whereof shall lie upon him, makes or has knowingly in his possession any die or instrument capable of making the impression of any such stamp;

(c) fraudulently cuts, tears in any way, or removes from any material any stamp used for purposes of revenue or accounting by the Government, with intent that another use shall be made of such stamp or any part thereof;

(d) fraudulently mutilates any such stamp as last aforesaid, with intent that another use shall be made of such stamp;

(e) fraudulently fixes or places upon any material or upon any such stamp as last aforesaid any stamp or part of stamp which whether fraudulently or not has been cut, torn, or in any way removed from any other material or out of or from any other stamp;

(f) fraudulently erases or otherwise either really or apparently removes from any stamped material

any name, sum, date, or other matter or thing whatsoever written thereon with the intent that another use shall be made of the stamp upon such material; or

- (g) knowingly and without lawful excuse, the proof whereof shall lie upon him, has in his possession any stamp or part of a stamp which has been fraudulently cut, torn, or otherwise removed from any material, or any stamp which has been fraudulently mutilated, or any stamped material out of which any name, sum, date, or other matter or thing has been fraudulently erased or otherwise really or apparently removed;

is liable to imprisonment for a term not exceeding seven years.

Making or having in possession paper or implements of forgery.

343. Any person who without lawful authority or excuse, the proof whereof lies upon 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 currency note or 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 anywise makes upon any plate, wood, stone, or other material, any words, figures, letters, marks, lines, or devices, the print whereof resembles in whole or in part any words, figures, letters, marks, lines or devices peculiar to and used in or on any bank note, or in or on any document entitling or evidencing the title of any person to any share or interest in any public stock, annuity, fund, or debt of the Government of Zanzibar, or in any stock, annuity, fund or debt of any body corporate, company or society, whether within or outside Zanzibar;

- (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 anywise made as aforesaid; or
- (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 anywise made as aforesaid;

is guilty of a felony and is liable to imprisonment for a term not exceeding seven years.

Uttering false documents.

344. Any person who knowingly and fraudulently utters a false document is guilty of an offence of the same kind, and is liable to the same punishment, as if he had forged the thing in question.

Uttering cancelled or exhausted documents.

345. Any person who knowingly utters as and for a subsisting and effectual document, any document which has by any lawful authority been ordered to be revoked, cancelled, or suspended, or the operation of which has ceased by effluxion of time, or by death, or by the happening of any other event, is guilty of an offence of the same kind, and is liable to the same punishment, as if he had forged the document.

Procuring execution of documents by false pretences.

346. Any person who, by means of any false or fraudulent representation as to the nature, contents, or operation of a document, procures another to sign or execute the document, is guilty of an offence of the same kind, and is liable to the same punishment, as if he had forged the document.

Obliterating crossings on cheque.

347. Any person who, with intent to defraud:

- (a) obliterates, adds to, or alters the crossing on a cheque; or
- (b) knowingly utters a crossed cheque, the crossing on which has been obliterated, added to, or altered;

is guilty of a felony, and is liable to imprisonment for a term not exceeding seven years.

Making documents without authority.

348. Any person who, with intent to defraud or deceive:
- (a) without lawful authority or excuse, makes, signs or executes for or in the name or on account of another person, whether by procuration or otherwise, any document or writing; or
 - (b) knowingly utters any document or writing so made, signed, or executed by another person;

is guilty of a felony, and is liable to imprisonment for a term not exceeding seven years.

Demanding property upon forged testamentary instruments.

349. Any person who procures the delivery or payment to himself or any other person of any property or money by virtue of any probate or letters of administration granted upon a forged testamentary instrument, knowing the testamentary instrument to have been forged, or upon or by virtue of any probate or letters of administration obtained by false evidence, knowing the grant to have been so obtained, is guilty of an offence of the same kind, and is liable to the same punishment, as if he had forged the document or thing by virtue whereof he procures the delivery or payment.

Purchasing forged notes.

350. Any person who, without lawful authority or excuse, the proof of which lies on him, purchases or receives from any person, or has in his possession, a forged bank note or currency note, whether filled up or in blank, knowing it to be forged, is guilty of a felony, and is liable to imprisonment for a term not exceeding seven years.

Falsifying warrant for money payable under public authority.

351. Any person who, being employed in the public service, knowingly and with intent to defraud makes out or delivers to any person a warrant for the payment of any money payable by public authority, for a greater or lesser amount than that to which the person on whose behalf the warrant is made out is entitled, is guilty of a felony, and is liable to imprisonment for a term not exceeding seven years.

Falsification of register.

352. Any person who, having the actual custody of any register or record kept by lawful authority, knowingly permits any entry which in any material particular is to his knowledge false, to be made in the register or record, is guilty of a felony, and is liable to imprisonment for a term not exceeding seven years.

Sending false certificate of marriage to registrar.

353. Any person who signs or transmits to a person authorised by law to register marriages, a certificate of marriage, or any documents purporting to be a certificate of marriage, which in any material particular is to his knowledge false, is guilty of a felony, and is liable to imprisonment for a term not exceeding seven years.

False statement for registers of births, deaths or marriages.

354. Any person who knowingly and with intent to procure the same to be inserted in a register of births, deaths, or marriages makes any false statement touching any matter required by law to be registered in any such register, is guilty of a felony, and is liable to imprisonment for a term not exceeding three years.

Forfeiture.

355. When any person is convicted of an offence under this Part, the court shall order the forfeiture to the Government of Zanzibar any forged bank note or currency note or any stamp, mould, tool, instrument, machine, press or metal used or employed in the commission of any such offence.

PART XXXVI **OFFENCES RELATING TO COIN AND NOTES**

Definitions.

356. In this part:

“coin” includes any coin coined in any of the Government of Zanzibar mints, or lawfully current by virtue of any Act in Zanzibar and any coin of a foreign Sovereign or State;

“counterfeit coin” means coin not genuine but resembling or apparently intended to resemble or pass for genuine coin; and includes genuine coin prepared or altered so as to pass for coin of a higher denomination.

Counterfeiting coin.

357. Any person who makes or begins to make any counterfeit coin is guilty of a felony and is liable to imprisonment for life.

Preparations for coining.

358. Any person who:

(a) gilds or silvers any piece of metal of a fit size or figure to be coined, with intent that it shall be coined into counterfeit coin;

Clipping.

- (b) makes any piece of metal into a fit size or figure to facilitate the coining from it of any counterfeit coin, with intent that such counterfeit coin shall be made from it; or
- (c) without lawful authority or excuse, the proof of which lies on him:
 - (i) buys, sells, receives, pays, or disposes of any counterfeit coin at a lower rate than it imports or is apparently intended to import, or offers to do any such thing;
 - (ii) brings or receives in to Zanzibar any counterfeit coin, knowing it to be counterfeit;
 - (iii) makes or mends, or begins or prepares to make or mend, or has in his possession, or disposes of any stamp or mould which is adapted to make the resemblance of both or either of the sides of any coin, or any part of either side thereof, knowing the same to be a stamp or mould or to be so adapted;
 - (iv) makes or mends, or begins or prepares to make or mend, or has in his possession, or disposes of any tool, instrument or machine which is adapted and intended to be used for marking coin round the edges with marks of figures apparently resembling those on the edges of any coin, knowing the same to be so adapted and intended; or
 - (v) makes or mends, or begins or prepares to make or mend, or has in his possession, or disposes of any press for coinage, or any tool, instrument or machine which is adapted for cutting round blanks out of gold, silver, or other metal, knowing such press, tool, instrument, or machine to have been used or to be intended to be used for making counterfeit coin;

is guilty of a felony and is liable to imprisonment for life.

- Possession of clippings. 359. Any person who deals with any coin in such a manner as to diminish its weight with intent that when so dealt with it may pass as coin, is guilty of a felony, and is liable to imprisonment for a term not exceeding seven years.
- Uttering counterfeit coin. 360. Any person who unlawfully has in his possession or disposes of any filings, or clippings of gold or silver, or any gold or silver in bullion, dust, solution, or any other state, obtained by dealing with gold or silver coin in such manner as to diminish its weight, knowing the same to have been so obtained, is guilty of a felony, and is liable to imprisonment for a term not exceeding seven years.
- Repeated uttering. 361. Any person who utters any counterfeit coin, knowing it to be counterfeit, is guilty of a misdemeanour.
- Uttering metal or coin not current as coin. 362. Any person who:
- (a) utters any counterfeit coin knowing it to be counterfeit and at the time of such uttering has in his possession any other counterfeit coin;
 - (b) utters any counterfeit coin knowing it to be counterfeit, and either on the same day or on any of the ten days next ensuing, utters any other counterfeit coin, knowing it to be counterfeit; or
 - (c) has in his possession three or more pieces of counterfeit coin, knowing them to be counterfeit and with intent to utter any of them;
- is guilty of a felony, and is liable to imprisonment for a term not exceeding three years.
- Exporting counterfeit coin. 363.(1) Any person who, with intent to defraud, utters as and for coin any medal or piece of metal is guilty of a misdemeanour and is liable to imprisonment for a term not exceeding one year.
- (2) Any person who, with intent to defraud, utters as and for coin lawfully current in Zanzibar by virtue of an Act or otherwise, any coin not so lawfully current is guilty of a misdemeanour and is liable to imprisonment for a term not exceeding one year.

Selling articles bearing design in imitation of currency.

364. Any person who, without lawful authority or excuse, the proof of which lies on him, exports or puts on board of a vessel or vehicle of any kind for the purpose of being exported from Zanzibar, any counterfeit coin whatever, knowing it to be counterfeit, is guilty of a misdemeanour.

Forfeiture.

365. Any person who without lawful authority or excuse, the proof whereof lies on him, sells or offers or exposes for sale any article which bears a design of any currency or bank note or coin in current use in Zanzibar or elsewhere is guilty of a misdemeanour and is liable to imprisonment for a term not exceeding six months.

Power to impound counterfeit coin.

366. When any person is convicted of an offence under this Part, the court shall order the forfeiture to the Government of Zanzibar of any forged bank note or currency note or of any counterfeit coin, or any stamp, mould, tool, instrument, machine, press, or any coin, bullion or metal used or employed in the commission of any such offence.

Defacing bank notes.

367.(1) An officer of the Government of Zanzibar or the manager of any bank who receives during the performance of his duties any coin which he has reasonable ground for believing to be counterfeit coin shall impound such coin and transmit it to the Accountant-General, who may cut, deface or destroy it with or without compensation, as he thinks fit, if in his opinion it is counterfeit.

(2) The decision of the Accountant-General that the coin is counterfeit and that compensation should be granted or withheld shall be final, and no person shall be entitled to claim, and no proceeding or action shall be brought, against the Accountant-General or the Government of Zanzibar in respect of any loss or damage suffered by reason of such impounding and cutting, defacing or destruction.

Wrongful issue of notes.

368. Any person who, without authority wilfully defaces, tears, cuts or otherwise mutilates any bank note or currency note which is legal tender, is guilty of misdemeanour and is liable on conviction to imprisonment not exceeding two years, or to a fine of one hundred thousand shillings in respect of each note.

Possession of die used for purpose of making stamps.

369. Any person who issues or is a party to issuing:
(a) any note purporting to be a currency note of Tanzania; or

- (b) any bank note purporting to be currency in Tanzania;

otherwise than in accordance with the provisions of the Bank of Tanzania Act, shall be guilty of felony and liable on conviction to imprisonment for a term not exceeding five years.

PART XXXVII **COUNTERFEIT STAMPS**

Paper and dies for postage stamps.

370. Any person who, without lawful authority or excuse, the proof of which lies on him :

- (a) makes or mends, or begins or prepares to make or mend, or uses, or knowingly has in his possession, or disposes of any die, plate, or instrument capable of making an impression resembling that made by any die, plate or instrument used for the purpose of making any stamp, whether impressed or adhesive, which is used for the purposes of the public revenue of the Posts and Telegraphs department in Zanzibar, or in any foreign country, or capable of producing in or on any paper any words, figures, letters, marks or lines resembling any words, figures, letters, marks or lines used in or on any paper specially provided by the proper authority for any such purpose;
- (b) knowingly has in his possession or disposes of any paper or other material which has on it the impression of any such die, plate or instrument, or any paper which has on it or in it any such words, figures, letters, marks or lines as aforesaid;
- (c) fraudulently, and with intent that use may be made of any such stamp as aforesaid, or of any part of it, removes the stamp from any material in any way whatever;
- (d) fraudulently, and with intent that use may be made of any part of such stamp, mutilates the stamp;
- (e) fraudulently fixes or places upon any material or upon any such stamp, any stamp or part of stamp

which has been in any way removed from any other material, or cut off or from any other stamp;

- (f) fraudulently, and with intent that use may be made of any such stamp which has been already impressed upon or attached to any material erases or otherwise removes either really or apparently, from such material anything whatever written on it;
- (g) knowingly has in his possession or disposes of anything obtained or prepared by any such unlawful act as aforesaid; or
- (h) fraudulently or with intent to cause loss to the Government of Zanzibar, uses for any purposes a stamp issued by Government for the purposes of revenue which he knows to have been before used;

is guilty of a felony, and is liable to imprisonment for a term not exceeding seven years; and any die, plate, instrument, paper or other thing as aforesaid which is found in his possession shall be forfeited to the Government of Zanzibar.

Application.

371.(1) Any person who, without lawful authority or excuse, the proof of which lies on him :

- (a) makes, or begins or prepares to make, or uses for any postal purpose, or has in his possession or disposes of any imitation or representation on paper or any other material, of any stamp used for denoting any rate of postage of Zanzibar;
- (b) makes or mends, or begins or prepares to make or mend, or uses, or has in his possession or disposes of any die, plate, instrument, or material for making any such imitation or representation;

is guilty of a misdemeanour, and is liable to imprisonment for a term not exceeding one year, or to a fine of one million shillings.

(2) Any stamps and any other things as aforesaid, which are found in his possession, shall be forfeited to the Government of Zanzibar.

(3) For the purpose of this section a stamp purporting to denote a rate of postage of any country is to be taken to be a stamp used for postal purposes in that country until the contrary is shown.

PART XXXIII
OFFENCES CONNECTED WITH COMPUTERS

Offences
against
intellectual
property.

372. The provision of this Part and other provisions related to this Part shall apply to act done or an omission made:

- (a) in the jurisdiction of the court of Zanzibar;
- (b) on a ship or aircraft registered in Zanzibar;
- (c) by citizen of Tanzania who is a resident of Zanzibar outside the jurisdiction of any country;
- (d) by a Tanzanian who is a resident of Zanzibar outside the jurisdiction of the courts of Zanzibar, if his or conduct would also constitute an offence under a law of the country where the offence was committed.

Offences
against
computer
equipment or
supplies.

373.(1) Any person who wilfully, knowingly, and without authorization modifies data, programmes, or supporting documentation residing or existing internal or external to a computer, computer system, or computer network commits an offence.

(2) Any person who wilfully, knowingly and without authorization destroys data, programmes, or supporting documentation residing or existing internal or external to a computer, computer system, or computer network commits an offence.

(3) Any person who wilfully, knowingly, and without authorization discloses or takes data, programs, or supporting documentation which is a trade secret or is confidential as provided by law residing or existing internal or external to a computer, computer system, or computer network commits an offence.

Except as otherwise provided in this section, an offence against intellectual property is a felony and the person is liable

on conviction to imprisonment for a term of not exceeding five years. If the offence is committed for the purpose of devising executing any scheme or artifice to defraud or to obtain any property, then the offender is guilty of a felony and is liable on conviction to imprisonment for a term of not exceeding ten years.

Destruction of computer equipment.

374.(1) Any person who wilfully, knowingly, and without authorization modifies equipment or supplies used or intended to be used in a computer, computer system, or computer network commits an offence against computer equipment or supplies, and is liable on conviction to imprisonment for a term of not exceeding five years. If the offence is committed for the purpose of devising or executing any scheme or artifice to defraud or to obtain any property, then the offender is guilty of a felony and is liable on conviction to imprisonment for a term not exceeding ten years.

Interfering with data.

375. Any person who wilfully, knowingly, and without authorization destroys, takes, injures, or damages equipment or supplies used or intended to be used in a computer, computer system, or computer network; or whoever wilfully, knowingly, and without authorization destroys, injures, or damages any computer, computer system, or computer network commits an offence against computer equipment or supplies, and is liable on conviction to imprisonment for a term not exceeding ten years.

Provided that if the damage to such computer equipment or supplies or to the computer, computer system, or computer network is Tsh. 1,000,000 or greater, or if there is an interruption or impairment of governmental operation or public communication, transportation, or supply of water, gas, or other public service, then the offender is guilty of a felony and is liable on conviction to imprisonment for a term not exceeding fifteen years.

Interfering with computer system.

376.(1) A person who, intentionally or recklessly, without lawful excuse or justification, does any of the following acts:

- (a) destroys or alters data; or
- (b) renders data meaningless, useless or effective; or
- (c) obstructs, interrupts or interferes with the lawful use of data; or

(d) obstructs, interrupts or interferes with any person in the lawful use of data; or

(e) denies access to data to any person entitled to it;

commits an offence punishable, on conviction, by imprisonment for a period not exceeding five years, or a fine not exceeding five hundred thousand shillings, or both.

(2) Subsection (1) applies whether the person's act is of temporary or permanent effect.

Illegal interception of data etc.

377.(1) A person who intentionally or recklessly, without lawful excuse or justification:

(a) hinders or interferes with the functioning of a computer system; or

(b) hinders or interferes with a person who is lawfully using or operating a computer system;

commits an offence punishable, on conviction, by imprisonment for a period not exceeding five years or a fine not exceeding five hundred thousand shillings or both.

In subsection (1) "hinder", in relation to a computer system, includes but is not limited to:

(a) cutting the electricity supply to a computer system; and

(b) causing electromagnetic interference to a computer system; and

(c) corrupting a computer system by any means; and

(d) inputting, deleting or altering computer data.

Illegal devices.

378. A person who, intentionally without lawful excuse or justification, intercepts by technical means:

(a) any non-public transmission to, or within a computer system; or

- (b) electromagnetic emission from a computer system that are carrying computer data;

commits an offence punishable, on conviction, by imprisonment for a period not exceeding [period], or a fine not exceeding [amount], or both.

Offence against computer users.

379.(1) A person commits an offence if the person:

- (a) intentionally or recklessly, without lawful excuse or justification, produces, sell, procures for use, imports, exports, distributes or otherwise makes available:
 - (i) a device, including a computer program, that is designed or adapted for the purpose of committing an offence;
 - (ii) a computer password, access code or similar data by which the whole or any part of a computer system is capable of being accessed;

with the intent that it be used by any person for the purpose of committing an offence against any law.

- (b) has an item mentioned in subparagraph (i) or (ii) in his or her possession with the intent that it be used by any person for the purpose of committing an offence against any law.

Fraud and related activity on government computers.

380. Any person who wilfully, knowingly, and without authorization accesses or causes to be accessed any computer, computer system, or computer network; or whoever wilfully, knowingly, and without authorization denies or causes the denial of computer system services to an authorized user of such computer system services, which, in whole or part, is owned by, under contract to, or operated for, on behalf of, or in conjunction with another commits an offence against computer users, and is liable on conviction to imprisonment for a term not exceeding five years. If the offence is committed for the purposes of devising or executing any scheme or artifice to defraud or to obtain any property, then the offender is guilty of a felony and is liable on conviction to imprisonment for a term not exceeding ten years.

Trade marks
defined.

381. Any person who:
- (a) having knowingly accessed a computer without authorization or exceeding authorized access, and by means of such conduct having obtained information that has been determined by the Government pursuant to an Executive order or statute to require protection against unauthorized disclosure for reasons of national defense or foreign relations, or any restricted data, with reason to believe that such information so obtained could be used to the injury of Zanzibar, or to the advantage of any foreign nation wilfully communicates, delivers, transmits, or causes to be communicated, delivered, or transmitted, or attempts to communicate, deliver, transmit or cause to be communicated, delivered, or transmitted the same to any person not entitled to receive it, or wilfully retains the same and fails to deliver it to the officer or employee of the Government entitled to receive it;
 - (b) intentionally accesses a computer without authorization or exceeds authorized access, and thereby obtains:
 - (i) information contained in a financial record of a financial institution;
 - (ii) information from any department or agency of the Government; or
 - (iii) information from any protected computer if the conduct involved an interstate or foreign communication;
 - (iv) intentionally, without authorization to access any non public computer of a department or agency of the Government, accesses such a computer of that department or agency that is exclusively for the use of the Government;
 - (v) knowingly and with intent to defraud, accesses a protected computer without authorization, or exceeds authorized

access, and by means of such conduct furthers the intended fraud and obtains anything of value;

shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding fifteen years.

In this part:

“computer” means an electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device, but such term does not include an automated typewriter or typesetter, a portable hand held calculator, or other similar device;

“computer network” “computer data” “computer system”

“Government” means the Government of Zanzibar or the Government of the United Republic of Tanzania as the case may be;

“protected computer” means a computer:

- (a) exclusively for the use of a financial institution or the Government;
- (b) which is used in interstate or foreign commerce or communication, including a computer located outside Zanzibar that is used in a manner that affects interstate or foreign commerce or communication of Government;

“financial institution” means a financial institution as defined under the law regulating financial institutions;

“financial record” means information derived from any record held by a financial institution pertaining to a customer’s relationship with the financial institution;

“exceeds authorized access” means to access a computer with authorization and to use such

access to obtain or alter information in the computer that the accesser is not entitled so to obtain or alter;

“damage” means any impairment to the integrity or availability of data, a program, a system, or information;

“loss” means any reasonable cost to any victim, including the cost of responding to an offense, conducting a damage assessment, and restoring the data, program, system, or information to its condition prior to the offense, and any revenue lost, cost incurred, or other consequential damages incurred because of interruption of service; and

“person” means any individual, firm, corporation, educational institution, financial institution, governmental entity, or legal or other entity.

PART XXXIX **COUNTERFEITING TRADE MARKS**

Counterfeiting
trade marks.

382. A trade mark is:

- (a) a mark lawfully used by any person to denote any chattel to be an article or thing of the manufacture, workmanship, production or merchandise of such person or to be an article or thing of any peculiar or particular description made or sold by such person; and
- (b) any mark or sign which in pursuance of any law in force for the time being relating to registered designs is to be put or placed upon or attached to any chattel or article during the existence or continuance of any copyright or other sole right acquired under the provision of such law.

Personation in
general.

383.(1) Any person who does any of the following things with intent to defraud or to enable another to defraud any person, that is to say:

- (a) forges or counterfeits any trade marks;

- (b) applies any trade marks, or any forged or counterfeited trade mark to any chattel or article not being the merchandise of any person whose trade mark is so forged or counterfeited;
- (c) applies any trade marks, or any forged or counterfeited trade mark to any chattel or article not being the particular or peculiar description of merchandise denoted or intended to be denoted by such trade mark or by such forged or counterfeited trade mark;
- (d) applies any trade marks, or any forged or counterfeited trade mark to any thing intended for any purpose of trade or manufacture, or in, on or with which any chattel or article is intended to be sold, or is sold or offered or exposed for sale;
- (e) encloses or places any chattel or article in, upon, under or with anything to which any trade mark has been falsely applied, or to which any forged or counterfeit trade mark has been applied;
- (f) applies or attaches any chattel or article to any case, cover, reel, ticket, label or other thing to which any trade mark has been falsely applied, or to which any false or counterfeit trade mark has been applied;
- (g) encloses, places or attaches any chattel or article in, upon, under, with, or to any thing having thereon any trade mark of any other person,

is guilty of a misdemeanour.

(2) Every person committing any such misdemeanour as aforesaid shall forfeit to the Government of Zanzibar:

- (a) all chattels and articles to which any such trade mark or counterfeit trade mark is applied or caused or procured to be applied;
- (b) every instrument for applying any such trade mark or counterfeit trade mark in his possession or power;

- (c) the chattels and articles and the things mentioned in paragraphs (d), (e) and (g) of subsection (1) and all similar things made to be used in like manner in his possession or power.

PART XL **PERSONATION**

Falsely acknowledging deeds, recognisances, etc.

384.(1) Any person who, with intent to defraud any person, falsely represents himself to be some other person, living or dead, is guilty of a misdemeanour.

(2) If the representation is that the offender is a person entitled by will or operation of law to any specific property and he commits the offence to obtain such property or possession thereof, he is liable to imprisonment for a term not exceeding seven years.

Personation of person named in a certificate.

385. Any person who, without lawful authority or excuse, the proof of which lies on him, makes, in the name of any other person, before any court or person lawfully authorised to take such an acknowledgement, an acknowledgement of liability of any kind, or an acknowledgement of a deed or other instrument, is guilty of a misdemeanour.

Lending, etc., certificate for personation.

386. Any person who utters any document which has been issued by lawful authority to another person, and whereby that other person is certified to be a person possessed of any qualification recognised by law for any purpose, or to be the holder of any office, or to be entitled to exercise any profession, trade or business, or to be entitled to any right or privilege, or to enjoy any rank or status, and falsely represents himself to be the person named in the document, is guilty of an offence of the same kind and is liable to the same punishment as if he had forged the document.

Personation of person named in a testimonial of character.

387. Any person who, being a person to whom any document has been issued by lawful authority whereby he is certified to be a person possessed of any qualification recognised by law for any purpose, or to the holder of any office, or business, or to be entitled to exercise any profession, trade, or business, or to be entitled to any right or privilege, or to enjoy any rank or status, sells, gives, or lends the document to another person with the intent that that other may represent himself to be the person named therein, is guilty of a misdemeanour.

Lending, etc.,
testimonial for
personation.

388. Any person who, for the purpose of obtaining any employment, utters any document of the nature of a testimonial of character given to another person, is guilty of a misdemeanour, and is liable to imprisonment for a term not exceeding one year.

Interpretation.

389. Any person who, being a person to whom any such document as is mentioned in section 388 has been given, gives, sells, or lends such document to another person with the intent that that other person may utter such document for the purpose of obtaining any employment, is guilty of a misdemeanour.

PART XLI

SECRET COMMISSIONS AND CORRUPT PRACTICES

Corrupt
practices.

390.(1) For the purpose of this Part:

“agent” includes any person employed by or acting for another;

“consideration“ includes valuable consideration of any kind; and

“principal” includes an employer.

(2) A person employed in the public service, or under any municipal council or board or under any other public body having power to impose rates or entrusted with the expenditure of any Government funds or grants, and a member of any such municipal council or board or other public body is an agent within the meaning of this part.

Secret
commissions on
Government
contracts.

391.(1) If any agent corruptly accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gift or consideration as an inducement or reward for doing or forbearing to do or for having done or forborne to do, any act in relation to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business; or

(2) If any person corruptly gives or agrees to give or offers any gift or consideration to any agent as an inducement or reward for doing or forbearing to do, or for having done or

forborne to do, any act in relation to his principal's or business or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business; or

(3) If any person knowingly gives to any agent, or if any agent knowingly uses with intent to deceive his principal, any receipt, account, or other document in respect of which the principal is interested, and which contains any statement which is false or erroneous or defective in any material particular, and which to his knowledge is intended to mislead the principal, he shall be guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding two years or to a fine not exceeding two million shillings, or to both such fine and imprisonment.

(4) When any person is convicted of an offence under this section, the court may, in addition to or in lieu of any other penalty which may be imposed, order the forfeiture to the Government of Zanzibar of any property which has passed in connection with the commission of the offence, or, if such property cannot be forfeited or cannot be found, of such sum as the court shall assess as the value of such property.

(5) Any property so forfeited shall be dealt with in such manner as the President of Zanzibar may direct.

(6) Payment of any sum so ordered to be forfeited may be enforced in the same manner and subject to the same incidents as in the case of payment of fine.

Presumption as to corrupt practices.

392. Any person convicted of an offence under this Part shall, where the matter of the transaction in relation to which the offence was committed was a contract or proposal for a contract with the Government or any Government department or a municipal council or board or other public body having power to impose rates or entrusted with the expenditure of any Government funds or grants, or a sub-contract to execute any work comprised, in such contract, be liable to imprisonment for a term not exceeding seven years or to a fine not exceeding ten thousand shillings or to both such fine and imprisonment.

Consent to prosecutions.

393. Where in any proceedings against a person for an offence under this Part it is proved that any money, gift or other consideration has been paid or given to or received by a person employed in the public service or in the service of any Government department or a municipal council or board or

other public body having power to impose rates or entrusted with the expenditure of any Government funds or grants, by or from a person or agent of a person holding or seeking to obtain a contract from the Government or any Government department or a municipal council or board or other public body having power to impose rates or entrusted with the expenditure of any Government funds or grants, the money, gift or consideration shall be deemed to have been paid or given and received corruptly as such inducement or reward as is mentioned in this Part unless the contrary is proved.

Attempt defined. 394. A prosecution for an offence under this Part shall not be instituted without the consent of the Director of Public Prosecutions.

Division VIII. – Attempts and Conspiracies to Commit Crimes, and Accessories After the Fact

PART XLII
ATTEMPTS

Attempts to commit offences. 395.(1) When a person, intending to commit an offence, begins to put his intention into execution by means adapted to its fulfilment, and manifests his intention by some overt act, but does not fulfil his intention to such an extent as to commit the offence, he is deemed to attempt to commit the offence.

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

(3) It is immaterial that by reason of circumstances not known to the offender it is impossible in fact to commit the offence.

Punishment for attempts to commit certain felonies. 396.(1) Any person who attempts to commit a felony or misdemeanour is guilty of an offence, which, unless otherwise stated, is a misdemeanour.

(2) Any person who attempts to commit a felony of such a kind that a person convicted of it is liable to punishment of death or imprisonment for a term of fourteen years or upwards,

with or without other punishment, is guilty of a felony, and is liable, if no other punishment is provided, to imprisonment for a term not exceeding seven years.

Soliciting or inciting others to commit offence in Zanzibar or elsewhere.

397. Any person who solicits or incites or attempt to procure another to do any act or make any omission, whether in Zanzibar or elsewhere, of such a nature that, if the act were done or the omission were made, an offence would thereby be committed under the laws of Zanzibar, or the laws in force in the place where the act or omission is proposed to be done or made, whether by himself or by that other person, is guilty of an offence of the same kind and is liable to the same punishment as if he had himself attempted to do the same act or make the same omission in Zanzibar:

Provided that if the act or omission is proposed to be done or made at a place not in Zanzibar, the punishment shall not exceed that which he would have incurred under the laws in force where the act or omission was proposed to be done or made, if he had himself attempted to do the proposed act or make the proposed omission.

Provided also that in the last mentioned case, a prosecution shall not be instituted except at the request of the Government of the State having jurisdiction in the place where the act or omission was proposed to be done or made.

Neglect to prevent felony.

398. Every person who, knowing that a person designs to commit or is committing a felony, fails to use all reasonable means to prevent the commission or completion thereof, is guilty of a misdemeanour.

PART XLIII **CONSPIRACIES**

Conspiracy to commit felony.

399. Any person who conspires with another to commit any felony, or to do any act in any part of the world which if done in Zanzibar would be a felony, and which is an offence under the laws in force in the place where it is proposed to be done, is guilty of a felony, and is liable, if no other punishment is provided, to imprisonment for a term not exceeding seven years, or, if the greatest punishment to which a person convicted of the felony in question is liable is less than the imprisonment for seven years, then to such lesser punishment.

Conspiracy to
commit
misdemeanour.

400. Any person who conspires with another to commit a misdemeanour, or to do any act in any part of the world which if done in Zanzibar would be a misdemeanour, and which is an offence under the laws in force in the place where it is proposed to be done, is guilty of a misdemeanour.

Other
conspiracies.

401. Any person who conspires with another to effect any of the purposes following, that is to say:

- (a) to prevent or defeat the execution or enforcement of any Act, statute, rule, regulations, or order;
 - (b) of his trade, profession, or occupation;
 - (c) to cause any injury to the person or reputation of any person, or to depreciate the value of any property of any person;
 - (d) to prevent or obstruct the free and lawful disposition of any property by the owner thereof for its fair value;
 - (e) to injure any person in his trade or profession;
 - (f) to prevent or obstruct, by means of any act or acts which if done by an individual person would constitute an offence on his part, the free lawful exercise by any person effect any unlawful purpose; or
 - (g) to effect any lawful purpose by an unlawful means,
- is guilty of a misdemeanour.

PART XLIV
ACCESSORIES AFTER THE FACT

Definition of
accessories
after the fact.

402.(1) A person who receives or assists another who is, to his knowledge, guilty of an offence, in order to enable him escape punishment, is said to become an accessory after the fact of the offence.

(2) A wife does not become an accessory after the fact to an offence of which her husband is guilty by receiving or assisting him in order to enable him to escape punishment; or

by receiving or assisting, in her husband's presence and by his authority, another person who is guilty of an offence in the commission of which her husband has taken part, in order to enable that other person to escape punishment; nor does a husband become accessory after the fact to an offence of which his wife is guilty by receiving or assisting her in order to enable her to escape punishment.

Punishment of accessories after the fact to felonies.

403. Any person becomes an accessory after the fact to a felony, is guilty of a felony, and is liable, if no other punishment is provided, to imprisonment for a term not exceeding three years.

Punishment of accessories after the fact to misdemeanours.

404. Any person who becomes an accessory after the fact to a misdemeanour is guilty of a misdemeanour.

Punishment of soliciting or inciting another to commit an offence.

405. Any person who solicits or incites another to commit an offence is guilty of misdemeanour notwithstanding that the solicitation or incitement has no effect.

PASSED in the House of Representatives on the 13th day of April, 2004.

**KHAMIS JUMA CHANDE
CLERK OF THE HOUSE OF REPRESENTATIVES**