

Chapter 264.
Summary Offences Act 1977.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 264.

Summary Offences Act 1977.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Summary Offences Act 1977,

Being an Act relating to summary offences.

PART I. – PRELIMINARY.

1. INTERPRETATION.

In this Act unless the contrary intention appears—

“**boat**” includes any ship, yacht, canoe, dinghy, raft, pontoon, and any water craft capable of carrying at least one occupant;

“**brothel**” means any premises used for the purposes of prostitution;

“**court**” means—

- (a) a District Court; or
- (b) [*Repealed.*]
- (c) a Principal Magistrate; or
- (d) a Magistrate;

“**drunkenness**” includes the state of a person who is so affected by alcoholic drink or drugs that his physical or mental faculties or his judgement are appreciably and materially impaired in the conduct of the ordinary affairs or acts of daily life;

“**fight**” means a fight in which two or more people are assaulting one another—

- (a) in a manner that is likely to cause bodily injury to some other person; or
- (b) so as to cause injury to the property of some other person;

“indictable offence” includes an indictable offence in relation to which a person may be dealt with summarily or a summary offence in relation to which a person may be dealt with on indictment.

“information” includes a complaint;

“offensive weapon” means—

- (a) any article made or adapted for use for causing injury to the person; or
- (b) any article intended by the individual having it with him for use for causing injury to the person; or
- (c)¹ without prejudice to the general descriptions contained in Paragraphs (a) and (b) the following:—
 - (i) any imitation of a pistol, revolver, rifle, shotgun, machine gun or sub machine gun, unless such article is obviously a child’s toy, of a type, class and description approved by the Registrar;
 - (ii) any article or device of a type or description commonly known as a knuckle duster or metal knuckles or any article or device made or adapted for use as such;
 - (iii) a sap glove or a studded glove;
 - (iv) a mace, knobkerry or similar device intended to be used as a blunt instrument, other than a ceremonial mace made or used solely as a symbol of authority on ceremonial occasions;
 - (v) any article or device in the form of a flail in which the striking part is armed with spikes or studded with any protruding matter, any whip or lash which is comprised wholly or partly of any form of metal, or any article commonly known as a cat of nine tails, whether or not it has nine leathers;
 - (vi) any article commonly known as kung fu sticks, otherwise known as Nunchiku or any similar article;
 - (vii) a pistol, capable of being concealed in the palm of the hand, but not including the standard ‘pocket’ or ‘purse’ pistol;
 - (viii) a firearm which substantially duplicates a walking stick, walking cane or umbrella;
 - (ix) a riding crop containing a knife or stiletto;
 - (x) a walking stick, walking cane or umbrella containing a knife, stiletto or sword;

¹ Section 1 (definition of “offensive weapon” paragraph (c)) added by the *Summary Offences (Amendment) Act 1986* (No. 36 of 1986), s2.

- (xi) a knife commonly known as a flick knife which has a blade which opens automatically on pressure of a button or similar release device;
- (xii) a crossbow, other than an antique crossbow used for ornamental purposes;
- (xiii) a cow prod, or similar device intended to cause an electrical shock upon the recipient;
- (xiv) a sling shot or similar device such as the thing commonly known as a catapult;

“person” includes a member of the Police Force;

“premises” includes—

- (a) any dwelling house, office, warehouse, store or shop; and
- (b) any building or structure; and
- (c) any factory, garage, workshop or hangar; and
- (d) any pavilion, tent, or caravan; and
- (e) any enclosed yard, garden or area; and
- (f) any aircraft; and
- (g) any vehicle; and
- (h) any vessel,

and any part of such premises;

“public place” includes—

- (a) a place to which free access is permitted to members of the public with the express or implied consent of the owner or occupier of the place; and
- (b) a place to which members of the public are admitted on payment of money while members of the public are present or are permitted to have access to the place; and
- (c) a road, street, bridge, footway, footpath, court, alley, passage or thoroughfare which members of the public are allowed to use, notwithstanding that the same may be, or be formed on, private property; and
- (d) an aerodrome, whether enclosed or otherwise; and
- (e) a passenger vessel or a boat carrying fare-paying passengers; and
- (f) a vehicle carrying fare-paying passengers; and
- (g) any school building and land or premises used in connection with any school;

“**street sign**” includes any sign referred to in Part XI. of the *Motor Traffic Regulations* 1967, and any sign erected by a public authority in any public place for the assistance or convenience of pedestrians, motorists, cyclists or other persons;

“**vehicle**” includes any conveyance fitted with wheels or runners for the purpose of carrying persons or things;

“**vessel**” means a vessel when in the territorial sea or lying or being in any place within Papua New Guinea and includes any cabin of any such vessel.

2. BURDEN OF PROOF OF LAWFUL EXCUSE.

Where under the provisions of this Act any act, if done without lawful excuse or lawful cause is an offence, the burden of proof that the act was done with lawful excuse or lawful cause, as the case may be, is on the person charged with the offence.

PART II. – DRUNKENNESS.

3. DRUNKENNESS.

A person who is found drunk in a public place is guilty of an offence.

Penalty: A fine not exceeding K40.00 or imprisonment for a term not exceeding one month.

4. DRUNK AND DISORDERLY.

A person who is found drunk in a public place and who acts in a manner that disturbs a reasonable member of the public or is likely to disturb a reasonable member of the public, is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding three months.

5. SPECIAL PROVISIONS RELATING TO DRUNKENNESS.

(1) Notwithstanding this Act or any other law, where a person has been convicted of an offence against Section 3 or 4, the court convicting the person may, instead of imposing a penalty, order that the person convicted be released on his entering into a recognizance, with or without sureties, to be of good behaviour and to comply with such other conditions as the court determines and specifies in the recognizance, for such period as the court orders.

(2) The conditions specified in the recognizance may include a condition that the convicted person subject himself to medical treatment for drunkenness.

PART III. – PROTECTION OF PERSONS.

6. ASSAULT.

²(1) In this section, “**applies force**” includes the application of heat, light, sound, electrical force, gas odour or any other substance or thing if applied to such a degree as to cause any injury or personal discomfort.

(2) For the purposes of this section, a person who–

- (a) strikes, touches, moves or otherwise applies force of any kind to the person of another, either directly or indirectly, without his consent, or with his consent if the consent is obtained by fraud; or
- (b) by any bodily act or gesture, attempts or threatens to apply force of any kind to the person of another without his consent, under such circumstances that the person making the attempt or threat has an actual or apparent present ability to apply such force,

is deemed to assault that person.

(3) A person who unlawfully assaults another person is guilty of an offence.

Penalty: A fine not exceeding K500.00 or imprisonment for a term not exceeding two years.

(4) Where a court convicts a person of an offence against Subsection (3), it may order him to pay–

- (a) to the person, in relation to whom the offence was committed; or
- (b) to any other person who suffers bodily injury or damage to property as a result of the commission of the offence,

such amount by way of compensation for bodily injury or damage to the property of the person occasioned by or in the course of the commission of the offence, as it considers just.

7. PROVOKING A BREACH OF THE PEACE.

³A person who–

- (a) uses threatening, offensive or insulting behaviour; or
- (b) uses threatening, abusive or insulting words; or
- (c) makes threatening, abusive or insulting gestures,

with intent to provoke a breach of the peace or by which a breach of the peace is likely to take place is guilty of an offence.

Penalty: A fine not exceeding K300.00 or imprisonment for a term not exceeding one year.

² Section 6 amended by No. 17 of 1983, s1; and; amended by No. 14 of 1985, s1.

³ Section 7 amended by No. 17 of 1983, s2; amended by No. 14 of 1985, s2.

8. CAUSING A FIGHT.

⁴A person who causes a fight or behaves in a manner that is likely to cause a fight is guilty of an offence.

Penalty: A fine not exceeding K600.00 or imprisonment for a term not exceeding three years.

9. INCITING TO FIGHT.

⁵A person who by words, gestures or otherwise incites any other person or persons to fight is guilty of an offence.

Penalty: A fine not exceeding K800.00 or imprisonment for a term not exceeding four years.

10. FIGHTING.

⁶Where two or more persons are fighting in a manner that is likely—

(a) to cause bodily injury to some other person; or

(b) to cause damage to the property of some other person,

they are each and severally guilty of an offence.

Penalty: A fine not exceeding K600.00 or imprisonment for a term not exceeding three years.

11. FALSE REPORTS.

A person who spreads false or wilfully misleading reports tending to cause trouble or ill-feeling—

(a) amongst people; or

(b) between the members of a group of people; or

(c) between groups of people; or

(d) between individuals,

is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding three months.

12. CARRYING WEAPONS.

⁷(1) A person who without reasonable excuse—

(a) carries; or

⁴ Section 8 amended by No. 17 of 1983, s3; amended by No. 14 of 1985, s3.

⁵ Section 9 amended by No. 17 of 1983, s4; amended by No. 14 of 1985, s4.

⁶ Section 10 amended by No. 17 of 1983, s5; amended by No. 14 of 1985, s5.

⁷ Section 12 amended by No. 17 of 1983, s6; amended by No. 14 of 1985, s6.

(b) has in his possession, custody or control,
any offensive weapon is guilty of an offence.

Penalty: ⁸A fine not exceeding K2,000.00 or imprisonment for a term not exceeding five years.

(2) Where a person is convicted of an offence against Subsection (1), the court that convicts him may order that the weapon the subject of the charge be destroyed or forfeited to the State.

13. ADDING MATTER TO FOOD OR DRINK.

A person who adds any matter or thing to food or drink consumed, or intended to be consumed, by another person with intent to cause that other person any physical or mental harm or incapacity is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding three months.

14. VALUELESS CHEQUES.

(1) A person who obtains, or pays for, any goods, money, valuable security, credit, benefit or advantage by passing a cheque that is not paid on presentation to the bank against which it is drawn is guilty of an offence.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding one year.

(2) It is a defence to a charge for an offence against Subsection (1) if the person charged proves that he had reasonable grounds for believing that the cheque would be paid in full on presentation.

(3) The fact that at the time the cheque was passed there were some funds to the credit of the account against which the cheque was drawn is not, of itself, a defence to a charge of an offence against Subsection (1).

15. FALSE PRETENCES.

A person who solicits, gathers, collects or obtains any money, property, subscription, contribution or advantage for himself or for any other person by means of any false pretence or wilfully misleading conduct, is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding three months.

16. PROPERTY REASONABLY SUSPECTED OF HAVING BEEN STOLEN.

⁹A person who has in his possession or who is conveying in any manner property reasonably suspected of having been stolen or unlawfully obtained who does

⁸ Section 12(1): Penalty clause repealed and replaced by the *Summary Offences (Amendment) Act 1993* (No. 16 of 1993), s1.

not give an account to the satisfaction of the court as to how he came by the property is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding two years.

17. DISGUISES.

A person who—

- (a) wears a disguise; or
- (b) has on or about his person any article of disguise,

with intent to commit an offence, is guilty of an offence.

Penalty: ¹⁰A fine not exceeding K500.00 or imprisonment for a term not exceeding two years.

18. POSSESSION OF HOUSE-BREAKING IMPLEMENTS.

¹¹(1) A person who has in his possession—

- (a) by night—any implement capable of being used for house-breaking, in circumstances that *prima facie* show an intention to use it for house-breaking; or
- (b) by day—any house-breaking implement with intent to commit an indictable offence,

is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding two years.

(2) It is a defence to a charge under Subsection (1)(a) if the person charged proves that he had lawful excuse for having the implement in his possession.

(3) Where a court convicts a person of an offence against Subsection (1), it may order that the house-breaking implement in relation to which the person was convicted be destroyed or forfeited to the State.

19. LOITERING WITH INTENT TO COMMIT INDICTABLE OFFENCE.

¹²A person who—

- (a) loiters in or near; or
- (b) frequents,

a public place with intent to commit an indictable offence is guilty of an offence.

⁹ Section 16 amended by No. 17 of 1983, s7; and; amended by No. 14 of 1985, s7.

¹⁰ Section 17: Penalty clause repealed and replaced by the *Summary Offences (Amendment) Act* 1993 (No. 16 of 1993), s2.

¹¹ Section 18 amended by No. 17 of 1983, s8; amended by No. 14 of 1985, s8.

¹² Section 19 amended by No. 17 of 1983, s9; amended by No. 14 of 1985, s9.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding one year.

20. UNLAWFULLY ON PREMISES.

¹³A person who, without lawful excuse, is in, on or adjacent to any premises is guilty of an offence.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding two years.

21. HABITUALLY IN THE COMPANY OF THIEVES.

(1) A person who is habitually in the company of persons who have been convicted of false pretences, stealing or other offences relating to property may—

(a) be summoned to appear before; or

(b) be arrested with or without warrant and brought before,

a District Court.

(2) Where a District Court is satisfied after due enquiry that a person to whom Subsection (1) refers, is habitually in the company of persons who have been convicted of false pretences, stealing or other offences relating to property, it may order that person to stay out of the company of the persons who have been convicted of false pretences, stealing or other offences relating to property specified in the order.

(3) A person who fails to comply with an order of a District Court under Subsection (2) is guilty of an offence.

Penalty: For the first offence—a fine not exceeding K100.00 or imprisonment for a term not exceeding three months.

For a second or subsequent offence—a fine not exceeding K200.00 or imprisonment for a term not exceeding six months.

22. ESCAPING FROM LAWFUL CUSTODY.

(1) A person who, being in the lawful custody of a person under any law, escapes or attempts to escape from custody is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding six months.

(2) A person who escapes from lawful custody is deemed to be continuing to commit an offence under Subsection (1) until he is arrested for that offence, any other offence, or under any other law.

¹³ Section 20 amended by No. 17 of 1983, s10; amended by No. 14 of 1985, s10.

23. INDECENT EXPOSURE.

(1) In this section “**private parts**”, in relation to—

- (a) a male person—means his genitals; and
- (b) a female person—means her vagina and the area immediately surrounding the vagina.

(2) A person who intentionally exposes his private parts in a public place or within view of any person in a public place is guilty of an offence.

Penalty: A fine not exceeding K50.00 or imprisonment for a term not exceeding one month.

(3) A person who intentionally exposes his private parts with intent to insult or offend any person in any place is guilty of an offence.

Penalty: A fine not exceeding K50.00 or imprisonment for a term not exceeding one month.

(4) A person cannot be convicted of an offence under this section on the uncorroborated testimony of one witness.

(5) It is a defence to a charge of an offence against Subsection (2) if the defendant proves that—

- (a) he had no intention to offend public decency; and
- (b) it was reasonable for him to have believed that his action would not insult, offend or annoy any other person.

24. INDECENT WRITING.

(1) A person who—

- (a) in a public place; or
- (b) within the view of any person in a public place,

writes any word which grossly offends against accepted standards of public decency is guilty of an offence.

Penalty: A fine not exceeding K40.00.

(2) Where a court convicts a person of an offence against Subsection (1) it may order the person convicted—

- (a) to remove or pay for the removal of the writing from any building, wall, fence, tree, pole, structure, roof or footpath, as the case may be, in a public place; and
- (b) to restore the building, wall, fence, tree, pole, structure, road or footpath, as the case may be, to its former condition.

25. INDECENT DRAWINGS, ETC.

(1) A person who—

- (a) in a public place; or
- (b) within the view of any person in a public place,

exhibits or causes to be exhibited—

- (c) any drawing, etching or painting; or
- (d) any photograph or photographic reproduction; or
- (e) any sculpture,

that grossly offends against accepted standards of public decency is guilty of an offence.

Penalty: A fine not exceeding K20.00 or imprisonment for a term not exceeding 14 days.

(2) Where a court convicts a person of an offence against Subsection (1) it may order that the drawing, etching, painting, photograph, photographic reproduction or sculpture, as the case may be, be destroyed or forfeited to the State.

(3) In addition to any order made under Subsection (2), where a court convicts a person of an offence under Subsection (1) it may order the person convicted—

- (a) to remove or pay for the removal of the drawing, etching, painting, photograph, photographic reproduction or sculpture, as the case may be, from any building, wall, fence, tree, pole, structure, road or footpath, as the case may be, in a public place; and
- (b) to restore the building, wall, fence, tree, pole, structure, road or footpath, as the case may be, to its former condition.

(4) It is a defence to a charge of an offence against Subsection (1) if the defendant proves that the article exhibited or caused to be exhibited in a public place had artistic or cultural merit.

(5) The opinion of witnesses as to the artistic or cultural merit of an article may be admitted in evidence in any proceedings under this section to establish or negative a defence under Subsection (4).

25A. POSSESSION, ETC., OF INDECENT ETC., ARTICLE.

¹⁴(1) A person who—

- (a) has in his possession; or
- (b) makes; or
- (c) produces; or
- (d) performs in the making or production of; or
- (e) exhibits; or
- (f) sells,

¹⁴ Section 25A was added by the *Summary Offences (Amendment) Act 1986* (No. 36 of 1986), s3.

an article or articles that–

- (g) is or are blasphemous or indecent; or
- (h) grossly offends or grossly offend against accepted standards of decency,

is guilty of an offence.

Penalty: A fine not exceeding K2,000.00 or imprisonment for a term not exceeding one year, or both.

(2) It is a defence to a charge of an offence against Subsection (1)(d) that the person charged was not aware that he was performing in the making or production of an article or articles.

(3) For the purposes of this section–

“article” means any description of article containing or embodying matter to be read or looked at or both, any sound record and any film or other record or a picture or pictures;

“film” means–

- (a) a cinematograph film, and includes a positive or negative of a cinematograph film; or
- (b) a video tape or video disc.

PART IV. – PROTECTION OF THE NEIGHBOURHOOD.**26. UNLAWFULLY DISTURBING HOUSEHOLDERS.**

¹⁵A person who, without reasonable excuse, disturbs–

- (a) any occupant of; or
- (b) any other person lawfully within,

any building–

- (c) by ringing any doorbell, buzzer or other similar device; or
- (d) by rapping or knocking on, or throwing stones, sticks or other missiles at,

any part of the building, is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding one year.

27. ALLOWING DISTURBANCES ON LICENCED PREMISES.

¹⁶The holder of a publican's licence, tavern licence, limited hotel licence, club licence, bottle shop licence or restaurant licence, under the *Liquor (Licensing) Act 1963*, who allows on the licenced premises conduct which causes or is likely to cause alarm, fear or disgust to any reasonable person is guilty of an offence.

Penalty: A fine not exceeding K5,000.00.

28. USE OF MISSILES, FIREARMS, ETC.

(1) In this section, “**firearm**” includes–

- (a) any gun, rifle or pistol; and
- (b) an airgun, starting pistol or imitation firearm whether or not it is capable of projecting any kind of shot, bullet or missile.

(2) A person who, without reasonable cause, discharges, throws or projects any stone, stick or other missile with intent to, or in a manner likely to–

- (a) injure, annoy or frighten any person; or
- (b) damage any property,

is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding three months.

(3)¹⁷ ¹⁸A person–

¹⁵ Section 26 amended by No. 17 of 1983, s11; amended by No. 14 of 1985, s11.

¹⁶ Section 27 amended by No. 17 of 1983, s12; amended by No. 14 of 1985, s12.

¹⁷ Section 28(3) repealed and replaced by the *Summary Offences (Amendment) Act 1993* (No. 16 of 1993), s3.

- (a) who without reasonable cause, discharges a firearm with intent to, or in a manner likely to—
 - (i) injure, annoy or frighten any person; or
 - (ii) damage any property; or
- (b) who makes, possesses or sells a firearm, without being the holder of a valid licence under the *Firearms Act 1978*,

is guilty of an offence.

Penalty: A fine not exceeding K1,000.00 or imprisonment for a term not exceeding two years.

(4) Where a person is convicted of an offence against Subsection (3) the court before which he is convicted may order that the firearm, the subject of the charge, be forfeited to the State.

29. EXPLODING FIREWORKS, ETC., IN A PUBLIC PLACE.

A person who, without the written consent of a Provincial Administrator—

- (a) sets fire to or explodes any fireworks or explosive material in a public place; or
- (b) throws any fireworks or explosive material into public place so that it explodes in or near the public place,

is guilty of an offence.

Penalty: A fine not exceeding K10.00.

30. THROWING, ETC., FIREWORKS OR OTHER EXPLOSIVE MATERIAL.

A person who throws, sets fire to, or explodes any fireworks or other explosive material—

- (a) so as to injure, frighten or annoy any person; or
- (b) in such circumstances that any person is likely to be injured, annoyed or frightened,

is guilty of an offence.

Penalty: A fine not exceeding K50.00.

31. WATERSKIING IN PROHIBITED AREA.

(1) In this section “**area of water**” includes any area of inland or coastal water, or any part of such area, within the country.

¹⁸ Section 28(3) repealed and replaced by the *Summary Offences (Amendment) Act 1993* (No. 16 of 1993), s3.

(2) Where it appears to the Minister to be in the public interest to do so, he may, by notice in the National Gazette, declare any area of water specified in the notice to be a prohibited area for the purposes of this section.

(3) A person who, in a prohibited area—

(a) water skis; or

(b) navigates any boat, motor vessel or powered canoe at a speed greater than five knots,

is guilty of an offence.

Penalty: For the first offence—a fine not exceeding K50.00.

For a second or subsequent offence—a fine not exceeding K100.00.

(4) A member of the Police Force who intends to lay a charge under Subsection (3) against a person may—

(a) advise that person that he intends to lay a charge under Subsection (3) against him; and

(b) ask that person for his name and address.

(5) A person who refuses or fails to provide his name and address when requested to do so under Subsection (4) is guilty of an offence.

Penalty: A fine not exceeding K50.00.

32. BURNING RUBBISH.

A person who, without reasonable cause, burns, or causes to be burnt, any substance that interferes with the reasonable comfort of any other person is guilty of an offence.

Penalty: A fine not exceeding K10.00.

33. YARDS TO BE CLEAN AND FREE FROM OFFENSIVE SMELLS.

A person who—

(a) is the owner or occupier of any premises or area adjacent to a public place; and

(b) fails or neglects to keep the premises or area clean and so causes annoyance to any person in the public place by reason of an offensive smell emanating from the premises or area,

is guilty of an offence.

Penalty: A fine not exceeding K10.00.

Default penalty: A fine not exceeding K1.00.

34. BREAKING GLASS IN A PUBLIC PLACE.

¹⁹(1) A member of the Police Force who—

- (a) finds a person wilfully breaking glass in a public place; or
- (b) has reasonable cause to believe that a person has just wilfully broken glass in a public place,

may order that person to remove that broken glass from the public place.

(2) A person who refuses or fails to obey an order given under Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding one year.

35. DEAD ANIMALS.

(1) In this section, “**animal**” includes any bird, fish or reptile.

(2) A person who leaves, or causes to be left, any dead animal or any part of a dead animal in or near any river, creek, drain or other watercourse that flows through or alongside a public place is guilty of an offence.

Penalty: A fine not exceeding K100.00.

36. POLLUTING WATERCOURSES, ETC.

A person who throws or drops any filth or rubbish into, or otherwise pollutes any river, creek, canal, watercourse, well, water-tank or water storage is guilty of an offence.

Penalty: A fine not exceeding K100.00.

37. OBSTRUCTING WATERCOURSES, ETC.

(1) A person who, without reasonable excuse, obstructs or diverts from its channel any public sewer, public drain, creek or other watercourse is guilty of an offence.

Penalty: A fine not exceeding K100.00.

(2) It is a defence to a charge against Subsection (1) if the person charged proves—

- (a) that he is a member of a customary group or community; and
- (b) that it is traditional for members of that customary group or community to divert that creek or other watercourse for the purpose of catching fish.

¹⁹ Section 34 amended by No. 17 of 1983, s13; and ; amended by No. 14 of 1985, s13.

38. FURTHER ORDERS RELATING TO THE REMOVAL OF RUBBISH, ETC.

(1) The court that convicts a person of an offence against Section 32, 33, 35, 36 or 37 may order the person convicted to—

- (a) remove, within the time specified in the order; or
- (b) pay the cost of the removal of,

the litter, filth, rubbish, refuse or other thing from the land or place on which it was deposited and to—

- (c) restore, within the time specified in the order; or
- (d) pay the cost of the restoration of,

the sewer, drain, creek or other watercourse to its former channel.

(2) A person who fails to comply with an order made under Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K100.00.

39. FENCING HOLES, ETC.

A person who—

- (a) is the owner or occupier of land that is open and exposed to any public place; and
- (b) without reasonable excuse, fails to cover, fence or shield any hole or other danger on that land adjacent to a public place; or
- (c) without reasonable excuse fails to cover, fence or shield any hole or other danger on that land so as to provide reasonable protection from injury to any person lawfully on that land,

is guilty of an offence.

Penalty: A fine not exceeding K50.00.

Default penalty: A fine not exceeding K5.00.

40. DANGERS, ETC., IN PUBLIC PLACES TO BE BARRICADED, ETC.

(1) A person who—

- (a) digs or causes to be dug, or who leaves or causes to be left, any hole; or
- (b) creates or causes to be created, any other danger,

in a public place or in an area adjacent to a public place, must—

- (c) immediately construct, or cause to be constructed, a barrier around the hole or danger so as to provide reasonable protection from injury to those members of the public who may reasonably be expected to use that public place or that area; and

(d) between the hours of 6 p.m. and 6 a.m, place and keep, or cause to be placed and kept, at least one visible lamp on the barrier so as to give reasonable warning of the hole or other danger to the members of the public using that public place or that area.

(2) A person who fails to comply with any of the provisions of Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K50.00.

Default penalty: A fine not exceeding K5.00.

PART V. – PROTECTION OF PROPERTY.*Division 1.²⁰**Offences Relating to Property.***41. INTERPRETATION OF PART V.**

In this Part, “**lawful authority**” includes the approval or consent of the owner or person in possession or control of the building, wall, fence, tree, pole, structure, road or footpath to which the offence relates.

42. POSTING BILLS ON WALLS, ETC.

(1) A person who, without lawful authority, in a public place, attaches any paper, bill, poster or placard to any building, wall, fence, tree, pole, structure, road or footpath is guilty of an offence.

Penalty: A fine not exceeding K50.00.

(2) The court that convicts a person of an offence against Subsection (1) may order the person convicted–

- (a) to remove, or to pay for the removal of, within the period specified by the court, the paper, bill, poster or placard, as the case may be; and
- (b) to restore the building, wall, fence, tree, pole, structure, road or footpath, as the case may be, to its former condition.

(3) A person who refuses or fails to comply with an order made by a court under Subsection (2) is guilty of an offence.

Penalty: A fine not exceeding K100.00.

43. WRITING ON OR DEFACING WALLS, ETC.

(1) A person who, without lawful authority, in a public place, writes on, soils, defaces or marks any building, wall, fence, tree, pole, structure, road or footpath by any means, is guilty of an offence.

Penalty: A fine not exceeding K50.00.

(2) The court that convicts a person of an offence against Subsection (1) may order the person convicted–

- (a) to remove, or to pay for the removal of, within the period specified by the court, the writing, dirt or marks, as the case may be; and
- (b) to restore the building, wall, fence, tree, pole, structure, road or footpath, as the case may be, to its former condition.

(3) A person who refuses or fails to comply with an order under Subsection (2) is guilty of an offence.

²⁰ Division 1: Heading added by No. 35 of 1981.

Penalty: A fine not exceeding K100.00.

44. DEFACING, ETC., STREET SIGNS.

(1) A person who, without lawful authority, interferes with, defaces, disfigures, destroys or removes a street sign or any part of a street sign is guilty of an offence.

Penalty: A fine not exceeding K50.00.

(2) The court that convicts a person of an offence against Subsection (1) may order the person convicted to repair or restore, or to pay for the repair or restoration of the street sign, within the period specified by the court.

(3) A person who refuses or fails to comply with an order made under Subsection (2) is guilty of an offence.

Penalty: A fine not exceeding K100.00.

45. CASTING BOATS ADRIFT.

(1) In this section, “**cast adrift**” includes—

- (a) the cutting of mooring lines; and
- (b) pulling up anchor; and
- (c) untying from a pier or buoy.

(2) A person who, without reasonable excuse, interferes with or casts adrift any boat is guilty of an offence.

Penalty: A fine not exceeding K100.00.

(3) Where a person is convicted of an offence against Subsection (2), the court before which he is convicted may, in addition to any penalty that it may impose, order the person convicted to pay such amount, by way of compensation, to the person aggrieved, as the court thinks fit.

46. INTERFERENCE, ETC., WITH PUBLIC LIGHTING.

(1) A person who, without reasonable cause, removes, obscures, damages or otherwise interferes with any lamp or other means of lighting erected or placed on a public place for the purpose of street lighting or for the safety of members of the public is guilty of an offence.

Penalty: A fine not exceeding K50.00.

(2) Where a person is convicted of an offence against Subsection (1), the court before which he is convicted may, in addition to any penalty it may impose, order the person convicted to pay such amount to replace or to restore to its former condition any lamp or other means of lighting referred to in Subsection (1).

(3) A person who refuses or fails to comply with an order made under Subsection (2) is guilty of an offence.

Penalty: A fine not exceeding K100.00.

47. DAMAGING PROPERTY.

²¹(1) In this section, “**property**” includes any personal property, house or other building, garden, crop, tree, fence, road, bridge, animal, reptile, bird or fish.

(2) A person who, without reasonable excuse, destroys, damages or injures any property belonging to another person is guilty of an offence.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding two years.

(3) Where a person is convicted of an offence against Subsection (2), the court before which he is convicted may, in addition to any penalty that it may impose, order the person convicted to pay such amount, by way of compensation, to the person aggrieved as the court thinks fit.

48. NEGLIGENT USE OF FIRE.

(1) In this section, “**property**” includes any personal property, house or other building, garden, crop, tree, fence, road, bridge, animal, reptile, bird or fish.

(2) A person who, by the negligent use of fire, destroys, damages or injures any property belonging to any other person is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding three months.

(3) Where a person is convicted of an offence against Subsection (2) the court before which he is convicted may, in addition to any penalty that it may impose, order the person convicted to pay such amount, by way of compensation, to the person aggrieved, as the court thinks fit.

Division 2.²²***Stealing.*****48A. APPLICATION OF CRIMINAL CODE.**

²³Sections 363 to 371 of the *Criminal Code 1974* apply to offences under this Division.

48B²⁴. [REPEALED.]**48C. STEALING.**

²⁵(1) A person who steals or attempts to steal anything, capable of being stolen, of a value not exceeding K500.00, is guilty of an offence under this Act.

²¹ Section 47 amended by No. 17 of 1983, s14; amended by No. 14 of 1985, s14.

²² Division 2 added by No. 35 of 1981.

²³ Section 48A added by No. 35 of 1981.

²⁴ Section 48B added by No. 35 of 1981; repealed by No. 16 of 1982.

²⁵ Section 48C added by No. 35 of 1981.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding 12 months.

(2) A person who steals or attempts to steal anything, capable of being stolen, of a value not exceeding K500.00—

- (a) from the person of another; or
- (b) the property of his employer or property which came into his possession on account of his employer,

is guilty of an offence under this Act.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding 12 months.

PART VI. – GAMING AND BETTING.**49. APPLICATION OF PART VI.**

This Part is subject to and does not derogate from the provisions of–

- (a) the *Gaming Act 1959*; and
- (b) the *Bookmaking Act 1974*; and
- (c) the *Criminal Code 1974*.

50. DECLARATION OF UNLAWFUL GAME.

(1) The Head of State, acting on advice may, by notice in the National Gazette, declare any game to be an unlawful game for the purposes of this Part.

(2) A declaration under Subsection (1) has no force or effect until approved by a resolution of the Parliament.

51. PLAYING UNLAWFUL GAME.

A person who plays an unlawful game is guilty of an offence.

Penalty: For the first offence—a fine not exceeding K40.00 or imprisonment for a term not exceeding one month.

For a second or subsequent offence—a fine not exceeding K100.00 or imprisonment for a term not exceeding three months.

52. GAMING IN PLACES OF PUBLIC RESORT.

A person who–

- (a) has the possession of, or the control of, any premises into which members of the public may enter, whether on payment of money or not; and
- (b) allows any unlawful game to be played on those premises,

is guilty of an offence.

Penalty: A fine not exceeding K50.00.

53. UNLAWFUL BETTING.

A person who, in or near any public place or in or near any premises licensed under the *Liquor (Licensing) Act 1963* plays or bets or incites or encourages any person to play or bet–

- (a) at or with any instrument of gaming at any game or pretended game of chance; or
- (b) at or on any trick or sleight of hand; or

- (c) at or on any game or trick with any instrument that is so constructed as to be capable of being used for cheating,

for a stake or prize is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding three months.

54. POSSESSION OF INSTRUMENTS OF GAMING.

(1) A person who—

- (a) loiters in or near any public place or in or near any premises licensed under the *Liquor (Licensing) Act 1963*; and

- (b) has in his possession, without lawful excuse—

- (i) an instrument of gaming; or

- (ii) an instrument that is so constructed as to be capable of being used as a means of cheating,

is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding three months.

(2) Where a court convicts a person of an offence against Subsection (1), it may order that the instrument in relation to which the person was convicted be forfeited to the State.

PART VII. – PROSTITUTION.**55. PERSONS LIVING ON THE EARNINGS OF PROSTITUTION.**

(1) A person who knowingly lives wholly or in part on the earnings of prostitution is guilty of an offence.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding one year.

(2) The fact that–

- (a) a person lives with, or is constantly in the company of a prostitute; or
- (b) a person has exercised some degree of control or influence over the movements of a prostitute in such a manner as to show that that person is assisting her to commit prostitution,

is *prima facie* evidence that that person is knowingly living on the earnings of prostitution.

56. KEEPING A BROTHEL.

(1) A person who–

- (a) keeps, manages or acts or assists in the management of a brothel; or
- (b) knowingly supplies, or assists in the supply of money for the maintenance and support of a brothel,

is guilty of an offence,

Penalty: A fine not exceeding K800.00 or imprisonment for a term not exceeding two years.

(2) For the purposes of this section, a person who acts or behaves in such a manner as would lead a reasonable person to believe that he is the person in charge of, or having the care or management of, a brothel, shall be deemed to keep the brothel.

57. SUPPRESSION OF BROTHELS.

A person who–

- (a) being the owner, lessee, tenant, occupier or person in charge of any premises–uses the premises or knowingly permits the premises to be used as a brothel or for any purposes connected with prostitution; or
- (b) being the owner or lessee of any premises or the agent of any such owner or lessee–lets or sublets the premises knowing that the premises are to be used as a brothel or for any purpose connected with prostitution,

is guilty of an offence.

Penalty: A fine not exceeding K200.00.

Default penalty: A fine not exceeding K20.00.

PART VIII. – OFFENCES RELATING TO POLICE.**58. CREATING FALSE BELIEF.**

A person who does any act with the intention of creating a belief or suspicion in any person that–

- (a) an offence has been committed; or
- (b) a life has or may be lost or is or may be endangered; or
- (c) property is, has been or may be endangered,

knowing that the circumstances with respect to which he intends to create the belief of suspicion have not occurred, is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding six months.

59. DELAYING OR WITHDRAWING AN INFORMATION FOR REWARD.

A person who–

- (a) lays an information or makes a complaint before a Magistrate for any offence, by which he is not personally aggrieved, which is alleged to have been committed against this Act or any other enactment or subordinate enactment; and
- (b) directly or indirectly accepts, without the consent of a court, any money or other reward for delaying or withdrawing the information or complaint,

is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding six months.

60. OBSTRUCTING, ETC., A MEMBER OF THE POLICE FORCE.

(1) A person who resists, obstructs or hinders a member of the Police Force acting in the execution of his duty, is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding six months.

(2) It is a defence to a charge of an offence against Subsection (1) if the defendant proves that he could not reasonably have known that the person resisted, obstructed or hindered was a member of the Police Force acting in the execution of his duty.

(3) Where a court convicts a person of an offence against Subsection (1), it may order him to pay to the member of the Police Force, in relation to whom the offence was committed, such amount by way of compensation for bodily injury or damage to

the property of the member occasioned by or in the course of the commission of the offence, as it considers just.

(4) A person who refuses or fails to comply with an order made under Subsection (3) is guilty of an offence.

Penalty: A fine not exceeding K100.00.

61. ASSAULTING A MEMBER OF THE POLICE FORCE.

(1) A person who assaults a member of the Police Force acting in the execution of his duty is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding six months, or both.

(2) It is a defence to a charge of an offence against Subsection (1) if the defendant proves that he could not reasonably have known that the person assaulted was a member of the Police Force acting in the execution of his duty.

(3) Where a court convicts a person of an offence against Subsection (1), it may order him to pay to the member of the Police Force, in relation to whom the offence was committed, such amount by way of compensation for bodily injury or damage to the property of the member occasioned by or in the course of the commission of the offence, as it considers just.

(4) A person who refuses or fails to comply with an order made under Subsection (3) is guilty of an offence.

Penalty: A fine not exceeding K100.00.

PART IX. – OFFENCES RELATING TO CERTAIN TYPES OF VEHICLES.**62. INTERPRETATION OF PART IX.**

In this Part, unless the contrary intention appears–

“**public street**” means any street, road, lane, thoroughfare, footpath, bridge or place open to or used by the public or to which the public have or are permitted to have access whether on payment of a fee or otherwise;

“**vehicle**” means a vehicle other than a motor vehicle as defined in the *Motor Traffic Act 1950*.

63. DRIVING, ETC., VEHICLE AT NIGHT WITHOUT LIGHT.

A person who, in a public street, drives or uses a vehicle between the hours of sunset and sunrise–

- (a) without having attached to the vehicle a white light that is, under normal circumstances, visible to a person in front of the vehicle at a distance of not less than 50m; or
- (b) without having attached to the back of the vehicle a red reflector light that is under normal circumstances clearly visible to a person behind the vehicle at a distance of not less than 50m,

is guilty of an offence.

Penalty: A fine not exceeding K20.00.

64. NEGLIGENT DRIVING, ETC.

²⁶A person who, in a public street, drives or uses a vehicle in a negligent manner is guilty of an offence.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding two years.

65. DANGEROUS DRIVING.

²⁷A person who, in a public street, drives or uses a vehicle in a manner dangerous to the public or any member of the public is guilty of an offence.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding two years.

²⁶ Section 64 amended by No. 17 of 1983, s15; amended by No. 14 of 1985, s15.

²⁷ Section 65 amended by No. 17 of 1983, s16; amended by No. 14 of 1985, s16.

66. FAILURE TO KEEP TO THE LEFT.

A person who, without reasonable excuse, drives or uses a vehicle without keeping the vehicle as close as practicable to the left-hand side of the carriageway is guilty of an offence.

Penalty: A fine not exceeding K40.00.

67. DRIVING, ETC., ON FOOTPATH.

A person who, without reasonable excuse, drives or uses any vehicle on a footpath is guilty of an offence.

Penalty: A fine not exceeding K40.00.

68. FAILURE TO COMPLY WITH DIRECTIONS OF MEMBER OF POLICE FORCE.

A person who, in any public street, drives or uses any vehicle and fails to comply with any reasonable direction given by a member of the Police Force as to—

- (a) the manner of approaching or departing from any place; or
- (b) the manner of taking up or setting down any passengers or the loading or unloading of goods; or
- (c) the regulation of traffic,

is guilty of an offence.

Penalty: A fine not exceeding K40.00.

PART X. – MISCELLANEOUS.

69. TIME LIMIT ON BRINGING CHARGES.

No charge for an offence against any provision of this Act shall be laid in any court after six months after the offence took place.

70. REGULATIONS.

The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, for carrying out and giving effect to this Act, and in particular for prescribing—

- (a) the form in which charges under the several sections of this Act may be laid; and
- (b) the imposition of penalties of fines not exceeding K100.00 or imprisonment for terms not exceeding three months, or both, for offences against the regulations.

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