BERMUDA

2005 : 15

CRIMINAL CODE AMENDMENT (No. 2) ACT 2005

Date of Assent: 21 July 2005

Sections 5, 6, 7, 10 and 11 Operative Date: 27 July 2005

ARRANGEMENT OF CLAUSES

WHEREAS it is expedient to make new provisions in relation to offences of having articles with a blade or point, and in relation to offences of counterfeiting, theft, deception, forgery and kindred offences; and for connected purposes.

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:—

Short title and commencement
1. This Act may be cited as the Criminal Code Amendment (No. 2) Act 2005 and shall come into operation on such day as the Minister of Justice may appoint by notice published in the Gazette, and the Minister may appoint different days for different provisions.

Interpretation
2. In this Act, the "principal Act" means the Criminal Code Act 1907.

Section 16 of principal Act repealed
3. Section 16 of the principal Act is repealed.

Part IX and of principal Act repealed and replaced
4. Part IX (sections 163 to 176) of the principal Act is repealed and replaced with the following —

"Part IX

COUNTERFEITING AND KINDRED OFFENCES

Interpretation of Part IX

Meaning of "currency note" and "protected coin"
163 (1) In this Part —

"Bermuda coin" means any coin which is legal tender in Bermuda;

"Bermuda currency note" means any note which is legal tender in Bermuda;

"currency note" means—

(a) any Bermuda currency note; or

(b) any note which—

(i) has been lawfully issued in some country or territory other than Bermuda; and

(ii) is customarily used as money in that country or territory;

"imitation Bermuda coin" means anything which resembles a Bermuda coin in shape, size and the substance of which it is made;

"protected coin" means any coin which —

(a) is a Bermuda coin;

(b) is customarily used as money in any country or territory; or

(c) is specified by the Minister of Finance for the purposes of this Part.

(2) The Minister of Finance may, by order subject to negative resolution procedure, specify coins for the purposes of this Part.

Offences

Offences of counterfeiting notes and coins

164 (1) It is an offence for a person to make a counterfeit of a currency note or of a protected coin, intending that he or another shall pass or tender it as genuine.

(2) It is an offence for a person to make a counterfeit of a currency note or of a protected coin without lawful authority or excuse.

Offences of passing etc. counterfeit notes and coins

165 (1) It is an offence for a person—

(a) to pass or tender as genuine any thing which is and which he knows or believes to be, a counterfeit of a currency note or of a protected coin; or

(b) to deliver to another any thing which is and which he knows or believes to be such a counterfeit intending that the person to whom it is delivered or another shall pass or tender it as genuine.

(2) It is an offence for a person to deliver to another without lawful authority or excuse any thing which is and which he knows or believes to be a counterfeit of a currency note or of a protected coin.

Offences involving the custody or control of counterfeit notes and coins

166 (1) It is an offence for a person to have in his custody or under his control anything which is and which he knows or believes to be a counterfeit of a currency note or of a protected coin, intending either to pass or tender it as genuine or to deliver it to another with the intention that he or another shall pass or tender it as genuine.

(2) It is an offence for a person to have in his custody or under his control, without lawful authority or excuse, any thing which is, and which he knows or believes to be, a counterfeit of a currency note or of a protected coin.

(3) It is immaterial for the purposes of subsections (1) and (2) that a coin or note is not in a fit state to be passed or tendered or that the making or counterfeiting of a coin or note has not been finished or perfected.

Offences involving the making or custody or control of counterfeiting materials and implements

167 (1) It is an offence for a person to make, or to have in his custody or under his control, any thing which he intends to use, or to permit any other person to use, for the purpose of making a counterfeit of a currency note or of a protected coin with the intention that it be passed or tendered as genuine.

(2) It is an offence for a person without lawful authority or excuse—

(a) to make; or

(b) to have in his custody or under his control;

any thing which, to his knowledge, is or has been specially designed or adapted for the making of a counterfeit of a currency note.

(3) Subject to subsection (4), it is an offence for a person to make, or to have in his custody or under his control, any implement which, to his knowledge, is capable of imparting to any thing a resemblance—

(a) to the whole or part of either side of a protected coin; or

(b) to the whole or part of the reverse of the image on either side of a protected coin.

(4) It shall be defence for a person charged with an offence under subsection (3) to show—

(a) that he made the implement or, as the case may be, had it in his custody or under his control, with the written consent of the Bermuda Monetary Authority; or

(b) that he had lawful authority otherwise than by virtue of paragraph (a), or a lawful excuse, for making it or having it in his custody or under his control.

The offence of reproducing Bermuda currency notes

168 It is an offence for any person, unless the Bermuda Monetary Authority has previously consented in writing, to reproduce on any substance whatsoever, and whether or not on the correct scale, any Bermuda currency note or any part of a Bermuda currency note.

Offences of making etc. imitation Bermuda coins

169 It is an offence for a person—

(a) to make an imitation Bermuda coin in connection with a scheme intended to promote the sale of any product or the making of contracts for the supply of any service; or

(b) to sell or distribute imitation Bermuda coins in connection with any such scheme or to have imitation Bermuda coins in his custody or under his control with a view to such sale or distribution;

unless the Bermuda Monetary Authority has previously consented in writing to the sale or distribution of such imitation Bermuda coins in connection with that scheme.

Prohibition of importation and exportation of counterfeits

Prohibition of importation of counterfeit notes and coins

170 The importation, landing or unloading of a counterfeit of a currency note or of a protected coin without the consent of the Bermuda Monetary Authority is hereby prohibited.

Prohibition of exportation of counterfeit notes and coins

171 The exportation of a counterfeit of a currency note or of a protected coin without the consent of the Bermuda Monetary Authority is prohibited.

Penalties for offences under Part IX

172 (1) A person guilty of an offence to which this subsection applies shall be liable on summary conviction to a fine of $10,000 or to imprisonment for 5 years, or both; and on conviction on indictment to a fine of $100,000 or to imprisonment for ten years, or both.

(2) The offences to which subsection (1) applies are offences under the following provisions of this Part—

(a) section 164(1);

(b) section 165(1);

(c) section 166(1) and

(d) section 167(1).

(3) A person guilty of an offence to which this subsection applies shall be liable on summary conviction to a fine of $5,000 or to imprisonment for two years, or both; and on conviction on indictment to a fine of $50,000 or to imprisonment for five years, or both.

(4) The offences to which subsection (3) applies are offences under the following provisions of this Part of this Act—

(a) section 164(2);

(b) section 165(2);

(c) section 166(2);

(d) section 167(2); and

(e) section 167(3).

(5) A person guilty of an offence under section 170 or 171 shall be liable on summary conviction to a fine of $10,000 and on conviction on indictment to a fine of $100,000.

Powers of search, forfeiture, etc.

173 (1) If it appears to a magistrate, from information given him on oath, that there is reasonable cause to believe that a person has in his custody or under his control—

(a) anything which is a counterfeit of a currency note or of a protected coin, or which is a reproduction made in contravention of section 168 or 169; or

(b) any thing which he or another has used, whether before or after the coming into force of this Part, or intends to use, for the making of any such counterfeit, or the making of any reproduction in contravention of section 168 or 169;

the magistrate may issue a warrant authorising a police officer to search for and seize the object in question, and for that purpose to enter any premises specified in the warrant.

(2) A police officer may at any time after the seizure of any object suspected of falling within paragraph (a) or (b) of subsection (1) (whether the seizure was effected by virtue of a warrant under that subsection or otherwise) apply to the Magistrates' Court for an order under this subsection with respect to the object; and the court, if it is satisfied both that the object in fact falls within one or other of those paragraphs and that it is conducive to the public interest to do so, may make such order as it thinks fit for the forfeiture of the object and its subsequent destruction or disposal.

(3) Subject to subsection (4), the court by or before which a person is convicted of an offence under this Part may order any thing shown to the satisfaction of the court to relate to the offence to be forfeited and either destroyed or dealt with in such other manner as the court may order.

(4) The court shall not order any thing to be forfeited under subsection (2) or (3) where a person claiming to be the owner of or otherwise interested in it applies to be heard by the court, unless an opportunity has been given to him to show cause why the order should not be made.

(5) Without prejudice to the generality of subsections (2) and (3), the powers conferred on the court by those subsections include power to direct that any object shall be passed to the Bermuda Monetary Authority or to any person authorised by such an authority to receive the object.

Directors' etc. liability

174 (1) Where an offence under section 168 or 169 which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be

attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Power of arrest

175 Every offence under this Part is an offence for which an offender may be arrested without warrant, and the provisions of section 454 shall apply to all such offences.".

Section 315 of principal Act amended

5. Section 315 (4) of the principal Act is amended by repealing the definition of offensive weapon and substituting the following —

""offensive weapon" means any article made or adapted for use for causing injury to or incapacitating a person, or intended by the person having it with him for such use by him or by some other person.".

Principal Act amended by inserting new sections 315C to 315F

6. The principal Act is amended by inserting the following sections after section 315B —

"**Offence of having article with blade or point in public place**

315C (1) Subject to subsections (4) and (5), any person who has an article to which this section applies with him in a public place shall be guilty of an offence.

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

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

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

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

(a) for use at work;

(b) for use at organized sporting events;

(c) for religious reasons; or

(d) as part of any national costume.

(6) A court which finds a person guilty of an offence under subsection (1), shall —

(a) on summary conviction, impose a term of imprisonment of not less than three years and not more than five years and may in addition to the prison sentence, impose a fine of $5,000;

(b) on conviction on indictment, impose a term of imprisonment of not less than five years and not more than seven years and may in addition to the prison sentence, impose a fine of $10,000.

(7) In this section "public place" includes any place to which at the material time the public have or are permitted access, whether on payment or otherwise.

(8) This section shall not have effect in relation to anything done before it comes into operation.

(9) An offence under this section is an offence for which an offender may be arrested without warrant, and the provisions of section 454 shall apply to such offence.

Offence of having article with blade or point (or offensive weapon) on school premises

315D (1) Any person who has an article to which section 315C applies with him on school premises shall be guilty of an offence.

(2) Any person who has an offensive weapon within the meaning of section 315(4) with him on school premises shall be guilty of an offence.

(3) It shall be a defence for a person charged with an offence under subsection (1) or (2) to prove that he had good reason or lawful authority for having the article or weapon with him on the premises in question.

(4) Without prejudice to the generality of subsection (3), it shall be a defence for a person charged with an offence under subsection (1) or (2) to prove that he had the article or weapon in question with him —

(a) for use at work;

(b) for use at organized sporting events;

(c) for educational purposes;

(d) for religious reasons; or

(e) as part of any national costume.

(5) A court which finds a person guilty of an offence under subsection (1) —

(a) shall on summary conviction, impose a term of imprisonment of not less than five years and not more than seven years and may in addition to the prison sentence, impose a fine of $10,000; or

(b) shall on conviction on indictment, impose a term of imprisonment of not less than seven years and not more than ten years and may in addition to the prison sentence, impose a fine of $20,000.

(6) A court which finds a person guilty of an offence under subsection (2) —

(a) shall on summary conviction, impose a term of imprisonment of not less than seven years and not more than ten years and may in addition to the prison sentence, impose a fine of $20,000; or

(b) shall on conviction on indictment, impose a term of imprisonment of not less than ten years and not more than fifteen years and may in addition to the prison sentence, impose a fine of $25,000.

(7) In this section and section 315E, "school premises" means land used for the purposes of a school excluding any land occupied solely as a dwelling by a person employed at the school; and "school" has the meaning given by section 2(1) of the Education Act 1996.

(8) An offence under this section is an offence for which an offender may be arrested without warrant, and the provisions of section 454 shall apply to such offence.

Power of entry to search for articles with a blade or point and offensive weapons

315E (1) A police officer may enter school premises and search those premises and any person on those premises for —

(a) any article to which section 315C applies; or

(b) any offensive weapon within the meaning of section 315(4),

if he has reasonable grounds for believing that an offence under section 315D of this Act is being, or has been, committed.

(2) If in the course of a search under this section a police officer discovers an article or weapon which he has reasonable grounds for suspecting to be an article or weapon of a kind described in subsection (1), he may seize and retain it.

(3) The police officer may use reasonable force, if necessary, in the exercise of the power of entry conferred by this section.".

Power to stop and search in anticipation of violence

315F (1) If a police officer of or above the rank of inspector reasonably believes —

(a) that incidents involving serious violence may take place in any locality and that it is expedient to give an authorisation under this section to prevent their occurrence; or

(b) that persons are carrying dangerous instruments or offensive weapons in any locality without good reason,

he may give an authorisation that the powers conferred by this section are to be exercisable at any place within that locality for a specified period not exceeding 24 hours.

(2) If it appears to an officer of or above the rank of superintendent that it is expedient to do so, having regard to offences which have, or are reasonably suspected to have, been committed in connection with any activity falling within the authorisation, he may direct that the authorisation shall continue in being for a further 24 hours.

(3) If an inspector gives an authorisation under subsection (1) he must, as soon as it is practicable to do so, cause an officer of or above the rank of superintendent to be informed.

(4) This section confers on any police officer in uniform power —

(a) to stop any pedestrian and search him or anything carried by him for offensive weapons or dangerous instruments; or

(b) to stop any vehicle and search the vehicle, its driver and any passenger for offensive weapons or dangerous instruments.

(5) A police officer may, in the exercise of the powers conferred by subsection (4), stop any person or vehicle and make any search he thinks fit whether or not he has any grounds for suspecting that the person or vehicle is carrying weapons or articles of that kind.

(6) If in the course of a search under this section a police officer discovers a dangerous instrument or an article which he has reasonable grounds for suspecting to be an offensive weapon, he may seize it.

(7) This section applies (with the necessary modifications) to ships, aircraft and hovercraft as it applies to vehicles.

(8) A person who fails to stop, or to stop a vehicle when required to do so by a police officer in the exercise of his powers under this section shall be liable on summary conviction to a fine of $500 or to imprisonment for a term of three months or to both.

(9) Any authorisation under this section shall be in writing signed by the officer giving it and shall specify the grounds on which it is given and the locality in which and the period during which the powers conferred by this section are exercisable and a direction under subsection (3) shall also be given in writing or, where that is not practicable, recorded in writing as soon as it is practicable to do so.

(10) Where a vehicle is stopped by a police officer under this section, the driver shall be entitled to obtain a written statement that the vehicle was stopped under the powers conferred by this section if he applies for such a statement not later than the end of the period of twelve months from the day on which the vehicle was stopped.

(11) A person who is searched by a police officer under this section shall be entitled to obtain a written statement that he was searched under the powers conferred by this section if he applies for such a statement not later than the end of the period of twelve months from the day on which he was searched.

(12) In this section —

"dangerous instruments" means instruments which have a blade or are sharply pointed;

"offensive weapon" has the meaning given in section 315(4).

(13) For the purposes of this section, a person carries a dangerous instrument or an offensive weapon if he has it in his possession.

(14) The powers conferred by this section are in addition to and not in derogation of, any power otherwise conferred.".

Section 322A of principal Act amended

7. Section 322A of the principal Act is amended by inserting "315C," after "315(1),".

Parts XIX and XX of principal Act repealed and replaced

8. Parts XIX (sections 330 to 367) and XX (sections 368 to 391) of the principal Act are repealed and replaced with the following —

"PART XIX

THEFT, BURGLARY AND COGNATE OFFENCES

Chapter 1: Trespass in and around dwelling houses

Trespass in dwelling-house

329I (1) Any person who, without lawful excuse, the proof of which shall be upon him, enters or is found in any dwelling-house or in any building which is adjacent to a dwelling-house and occupied with it but which is not part of it, is guilty of an offence.

(2) A person convicted of an offence under this section is liable —

(a) on summary conviction, to a term of imprisonment of three years; and

(b) on conviction on indictment, to a term of imprisonment of five years.

Prowling etc about dwelling-houses

329J Any person who, without lawful excuse, the proof of which shall be upon him, hovers, lurks or prowls about, or attempts to enter, any dwelling-house, commits an offence and is liable —

(a) on summary conviction, to a term of imprisonment of three years; and

(b) on conviction on indictment, to a term of imprisonment of five years.

Chapter 2: Theft

Interpretation
330 (1) Sections 334(1) and 335(1) shall apply generally for purposes of this Chapter as they apply for purposes of section 331.

(2) For purposes of this Chapter—

"gain" and "loss" are to be construed as extending only to gain or loss in money or other property, but as extending to any such gain or loss whether temporary or permanent; and—

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

(b) "loss" includes a loss by not getting what one might get, as well as a loss by parting with what one has;

(c) "goods", except in so far as the context otherwise requires, includes money and every other description of property except land, and includes things severed from the land by stealing;

"deception" has the meaning given in section 345.

Definition of "Theft"

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

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

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

"Dishonestly"
332 (1) A person's appropriation of property belonging to another is not to be regarded as dishonest—

(a) if he appropriates the property in the belief that he has in law the right to deprive the other of it, on behalf of himself or of a third person; or

(b) if he appropriates the property in the belief that he would have the other's consent if the other knew of the appropriation and the circumstances of it; or

(c) (except where the property came to him as trustee or personal representative) if he appropriates the property in the belief that the person to whom the property belongs cannot be discovered by taking reasonable steps.

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

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

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

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

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

(a) when he is a trustee or personal representative, or is authorised by power of attorney, or as liquidator of a company, or otherwise, to sell or dispose of land belonging to another, and he appropriates the land or anything forming part of it by dealing with it in breach of the confidence reposed in him; or

(b) when he is not in possession of the land and appropriates anything forming part of the land by severing it or causing it to be severed, or after it has been severed; or

(c) when, being in possession of the land under a tenancy, he appropriates the whole or part of any fixture or structure let to be used with the land.

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

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

(5) For purposes of this section —

"land" does not include incorporeal hereditaments;

"plant" includes any shrub or tree;

"tenancy" means a tenancy for years or any less period and includes an agreement for such a tenancy, but a person who after the end of a tenancy remains in possession [as statutory tenant] or otherwise is to be treated as having possession under the tenancy, and "let" shall be construed accordingly.

"Belonging to another"

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

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

trust shall be regarded accordingly as an intention to deprive of the property any person having that right.

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

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

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

"With the intention of permanently depriving the other of it"

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

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

Theft, Robbery, Burglary, etc.

Theft

337 (1) A person guilty of theft shall be liable on summary conviction to a fine of $10,000 or to imprisonment for five years, or both; and on conviction on indictment to a fine of $100,000 or to imprisonment for ten years, or both.

(2) Notwithstanding subsection (1), where a person is charged with the theft of any article the value of which is $1,000 or less, the court shall proceed as if the offence were triable only summarily.

Robbery

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

(2) A person guilty of robbery, or of an assault with intent to rob, shall be liable on summary conviction to a fine of $10,000 or to imprisonment for five years, or both; and on conviction on indictment to imprisonment for twenty years.

Burglary

339 (1) A person is guilty of burglary if—

(a) he enters any building or part of a building as a trespasser and with intent to commit any such offence as is mentioned in subsection (2); or

(b) having entered any building or part of a building as a trespasser he steals or attempts to steal anything in the building or that part of it or inflicts or attempts to inflict on any person therein any actual bodily harm.

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

(3) A person guilty of burglary shall —

(a) on summary conviction be liable to a fine of $10,000 or to imprisonment for five years or to both;

(b) on conviction on indictment be liable to imprisonment as follows —

(i) where the offence was committed in respect of a building or part of a building which is a dwelling, fourteen years;

(ii) in any other case ten years.

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

Aggravated burglary

340 (1) A person is guilty of aggravated burglary if he commits any burglary and at the time has with him any firearm or imitation firearm, any offensive weapon, article with a blade or a point or any explosive; and for this purpose—

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

(b) "offensive weapon" has the meaning given in section 315 (4) ;

(c) "article with a blade or a point" shall be construed in accordance with section 315C (2); and

(d) "explosive" means any article manufactured for the purpose of producing a practical effect by explosion, or intended by the person having it with him for that purpose.

(2) A person guilty of aggravated burglary shall on conviction on indictment be liable to imprisonment for twenty years.

Removal of articles from places open to the public

341 (1) Subject to subsections (2) and (3), where the public have access to a building in order to view the building or part of it, or a collection or part of a collection housed in it, any person who without lawful authority removes from the building or its grounds the whole or part of any article displayed or kept for display to the public in the building or that part of it or in its grounds shall be guilty of an offence.

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

(3) It is immaterial for purposes of subsection (1), that the public's access to a building is limited to a particular period or

particular occasion; but where anything removed from a building or its grounds is there otherwise than as forming part of, or being on loan for exhibition with, a collection intended for permanent exhibition to the public, the person removing it does not thereby commit an offence under this section unless he removes it on a day when the public have access to the building as mentioned in subsection (1).

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

(5) A person guilty of an offence under this section shall, on summary conviction be liable to a fine of $10,000 or imprisonment for five years or both, and on conviction on indictment, to a fine of $50,000 or imprisonment for a term of ten years, or both.

Taking motor vehicle or other conveyance without authority

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

(2) A person guilty of an offence under subsection (1) shall be liable on summary conviction to a fine of $5,000 or to imprisonment for two years, or both.

(3) If on the trial of an indictment for theft the jury are not satisfied that the accused committed theft, but it is proved that the accused committed an offence under subsection (1), the jury may find him guilty of the offence under subsection (1) and if he is found guilty of it, he shall be liable as he would have been liable under subsection (2) on summary conviction.

(4) Proceedings for an offence under subsection (1) (but not proceedings of a kind falling within subsection (3)) in relation to a mechanically propelled vehicle—

(a) shall not be commenced after the end of the period of three years beginning with the day on which the offence was committed; but

(b) subject to that may be commenced at any time within the period of six months beginning with the relevant day.

(5) Subsection (1) shall not apply in relation to pedal cycles; but, subject to subsection (6), a person who, without having the consent of the owner or other lawful authority, takes a pedal cycle for his own or another's use, or rides a pedal cycle knowing it to have been taken without such authority, is guilty of an offence and liable on summary conviction to a fine of $1,000.

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

(7) For purposes of this section—

"conveyance" means any conveyance constructed or adapted for the carriage of a person or persons whether by land, water or air, except that it does not include a conveyance constructed or adapted for use only under the control of a person not carried in or on it, and "drive" shall be construed accordingly;

"owner", in relation to a conveyance which is the subject of a hiring agreement or hire-purchase agreement, means the person in possession of the conveyance under that agreement;

"relevant day" means the day on which sufficient evidence to justify the proceedings came to the knowledge of any person responsible for deciding whether to commence any such prosecution.

Aggravated vehicle-taking

343 (1) Subject to subsection (3), a person is guilty of aggravated taking of a vehicle if —

(a) he commits an offence under section 342(1) (in this section referred to as a "basic offence") in relation to a mechanically propelled vehicle; and

(b) it is proved that, at any time after the vehicle was unlawfully taken (whether by him or another) and before it was recovered, the vehicle was driven, or injury or damage was caused, in one or more of the circumstances set out in paragraphs (a) to (d) of subsection (2).

(2) The circumstances referred to in subsection (1)(b) are—

(a) that the vehicle was driven dangerously on a road or other public place;

(b) that, owing to the driving of the vehicle, an accident occurred by which injury was caused to any person;

(c) that, owing to the driving of the vehicle, an accident occurred by which damage was caused to any property, other than the vehicle;

(d) that it was caused to the vehicle.

(3) A person is not guilty of an offence under this section if he proves that, as regards any such proven driving, injury or damage as is referred to in subsection (1)(b), either—

(a) the driving, accident or damage referred to in subsection (2) occurred before he committed the basic offence; or

(b) he was neither in nor on nor in the immediate vicinity of the vehicle when that driving, accident or damage occurred.

(4) A person guilty of an offence under this section shall be liable on conviction on indictment to imprisonment for five years or, if it is proved that, in circumstances falling within subsection (2)(b), the accident caused the death of the person concerned, for seven years.

(5) If a person who is charged with an offence under this section is found not guilty of that offence but it is proved that he committed a basic offence, he may be convicted of the basic offence.

(6) If by virtue of subsection (5) a person is convicted of a basic offence before the Supreme Court that court shall have the same powers and duties as the Magistrates Court would have had on convicting him of such an offence.

(7) For the purposes of this section a vehicle is driven dangerously if—

(a) it is driven in a way which falls far below what would be expected of a competent and careful driver; and

(b) it would be obvious to a competent and careful driver that driving the vehicle in that way would be dangerous.

(8) For the purposes of this section a vehicle is recovered when it is restored to its owner or to other lawful possession or

custody; and in this subsection "owner" has the same meaning as in section 342(7)

Abstracting of electricity
344 A person who dishonestly uses without due authority, or dishonestly causes to be wasted or diverted, any electricity shall be guilty of an offence and liable on summary conviction to a fine of $5,000 or to imprisonment for twelve months, or both; and on conviction on indictment be liable to a fine of $50,000 or imprisonment for two years, or both.

Fraud and blackmail

Obtaining property by deception
345 (1) A person who by any deception dishonestly obtains property belonging to another, with the intention of permanently depriving the other of it shall be guilty of an offence and liable on summary conviction to a fine of $10,000 or to imprisonment for five years, or both; and on conviction on indictment to a fine of $100,000 or imprisonment for ten years, or both.

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

(3) Section 336 shall apply for purposes of this section with the necessary adaptation of the reference to appropriating, as it applies for purposes of section 331.

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

Obtaining a money transfer by deception
346 (1) A person is guilty of an offence if by any deception he dishonestly obtains a money transfer for himself or another.

(2) A money transfer occurs when—

(a) a debit is made to one account;

(b) a credit is made to another; and

(c) the credit results from the debit or the debit results from the credit.

(3) References to a credit and to a debit are to a credit of an amount of money and to a debit of an amount of money.

(4) It is immaterial (in particular)—

(a) whether the amount credited is the same as the amount debited;

(b) whether the money transfer is effected on presentment of a cheque or by another method;

(c) whether any delay occurs in the process by which the money transfer is effected;

(d) whether any intermediate credits or debits are made in the course of the money transfer;

(e) whether either of the accounts is overdrawn before or after the money transfer is effected.

(5) A person guilty of an offence under this section shall be liable on summary conviction to a fine of $10,000 or to imprisonment for five years, or both; and on conviction on indictment to a fine of $100,000 or imprisonment for ten years or both.

(6) For purposes of this section “account” means an account kept with a deposit taking business within the meaning of section 4 of the Banks and Deposits Companies Act 1999.

Obtaining pecuniary advantage by deception

347 (1) A person who by any deception dishonestly obtains for himself or another any pecuniary advantage shall be guilty of an offence and liable on summary conviction to a fine of $10,000 or to imprisonment for five years, or both; and on conviction on indictment to a fine of $100,000 or to imprisonment for ten years or both.

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

(a) he is allowed to borrow by way of overdraft, or to take out any policy of insurance or annuity contract, or obtains an improvement of the terms on which he is allowed to do so; or

(b) he is given the opportunity to earn remuneration or greater remuneration in an office or employment, or to win money by betting.

(3) For purposes of this section “deception” has the same meaning as in section 345(4).

Obtaining services by deception

348 (1) A person who by any deception dishonestly obtains services from another shall be guilty of an offence and liable on summary conviction to a fine of $10,000 or to imprisonment for five years, or both; and on conviction on indictment to a fine of $100,000 or imprisonment for ten years or both.

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

(3) Without prejudice to the generality of subsection (2), it is an obtaining of services where the other is induced to make a loan, or to cause or permit a loan to be made, on the understanding that any payment (whether by way of interest or otherwise) will or has been made in respect of the loan.

Evasion of liability by deception

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

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

(b) with intent to make permanent default in whole or in part on any existing liability to make a payment or with intent to let another do so dishonestly induces the creditor or any person claiming payment on behalf of the creditor to wait for payment (whether or not the due date for payment is deferred) or to forgo payment; or

(c) dishonestly obtains any exemption from or abatement of liability to make a payment;

he shall be guilty of an offence and liable on summary conviction to a fine of $10,000 or to imprisonment for five years, or both; and on conviction on indictment a fine of $100,000 or to imprisonment for ten years or both.

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

(3) For purposes of subsection (1)(b) a person induced to take in payment a cheque or other security for money by way of

conditional satisfaction of a pre-existing liability is to be treated not as being paid but as being induced to wait for payment.

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

Making off without payment

350 (1) Subject to subsection (3), a person who, knowing that payment on the spot for any goods supplied or service done is required or expected from him, dishonestly makes off without having paid as required or expected and with intent to avoid payment of the amount due shall be guilty of an offence and liable on summary conviction to a fine of $10,000 or to imprisonment for two years or both.

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

(3) Subsection (1) shall not apply where the supply of the goods or the doing of the service is contrary to law, or where the service done is such that payment is nor legally enforceable.

False accounting

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

(a) destroys, defaces, conceals or falsifies any account or any record or document made or required for any accounting purpose; or

(b) in furnishing information for any purpose produces or makes use of any account, or any such record or document as aforesaid which to his knowledge is or may be misleading, false or deceptive in a material particular;

he shall be guilty of an offence and liable on summary conviction to a fine of $10,000 or imprisonment for five years, or both and on conviction on indictment to a fine of $100,000 or imprisonment for ten years or both.

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

Liability of company officers for certain offences by company

352 (1) Where an offence committed by a body corporate under section 345, 347 or 351 is proved to have been committed with the consent or connivance of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence, and shall be liable to be proceeded against and punished accordingly.

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

False statements by company directors, etc.

353 (1) Where an officer of a body corporate or unincorporated association (or person purporting to act as such), with intent to deceive members or creditors of the body corporate or association about its affairs, publishes or concurs in publishing a written statement or account which to his knowledge is or may be misleading, false or deceptive in a material particular, he shall be guilty of an offence and liable on summary conviction to a fine of $10,000 or imprisonment for five years or both; and on conviction on indictment to a fine of $100,000 or imprisonment for ten years or both.

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

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

Suppression, etc. of documents

354 (1) A person who dishonestly, with a view to gain for himself or another or with intent to cause loss to another, destroys, defaces or conceals any valuable security, any will or other testamentary document or any original document of or belonging to, or filed or deposited in, any court of justice or any government department shall on conviction on indictment be liable a fine of $100,000 or to imprisonment for ten years or both.

(2) A person who dishonestly, with a view to gain for himself or another or with intent to cause loss to another, by any deception procures the execution of a valuable security shall be guilty of an offence and liable on conviction on indictment to a fine of $100,000 or to imprisonment for a term of ten years or both; and this subsection shall apply in relation to the making, acceptance, endorsement, alteration, cancellation or destruction in whole or in part of a valuable security, and in relation to the signing or sealing of any paper or other material in order that it may be made or converted into, or used or dealt with as, a valuable security, as if that were the execution of a valuable security.

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

Blackmail

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

(a) that he has reasonable grounds for making the demand; and

(b) that the use of the menaces is a proper means of reinforcing the demand.

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

(3) A person guilty of blackmail shall be liable on conviction on indictment to a fine of $250,000 or imprisonment for fourteen years or both.

Offences relating to goods stolen etc.

Handling stolen goods

356 (1) A person handles stolen goods if (otherwise than in the course of the stealing) knowing or believing them to be stolen goods he dishonestly receives the goods, or dishonestly

undertakes or assists in their retention, removal, disposal or realisation by or for the benefit of another person, or if he arranges to do so.

(2) A person guilty of handling stolen goods shall be liable on summary conviction to a fine of $10,000 or to imprisonment for five years or both; and on conviction on indictment to a fine of $150,000 or imprisonment for fourteen years, or both.

Advertising rewards for return of goods stolen or lost
357 Where any public advertisement of a reward for the return of any goods which have been stolen or lost uses any words to the effect that no questions will be asked, or that the person producing the goods will be safe from apprehension or inquiry, or that money paid for the purchase of the goods or advanced by way of loan on them will be repaid, the person advertising the reward and any person who prints or publishes the advertisement shall be guilty of an offence and liable on summary conviction to a fine of $5,000.

Scope of offences relating to stolen goods
358 (1) The provisions of this Chapter relating to goods which have been stolen shall apply whether the stealing occurred in Bermuda or elsewhere, and whether it occurred before or after the commencement of this Chapter, provided that the stealing (if not an offence under this Chapter) amounted to an offence where and at the time when the goods were stolen; and references to stolen goods shall be construed accordingly.

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

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

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

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

(4) For purposes of the provisions of this Chapter relating to goods which have been stolen (including subsections (1) to (3)) goods obtained in Bermuda or elsewhere either by blackmail or in the circumstances described in section 345(1) shall be regarded as stolen and "steal", " theft" and "thief" shall be construed accordingly.

Dishonestly retaining a wrongful credit

359 (1) A person is guilty of an offence if**—**

(a) a wrongful credit has been made to an account kept by him or in respect of which he has any right or interest;

(b) he knows or believes that the credit is wrongful; and

(c) he dishonestly fails to take such steps as are reasonable in the circumstances to secure that the credit is cancelled.

(2) References to a credit are to a credit of an amount of money.

(3) A credit to an account is wrongful if it is the credit side of a money transfer obtained contrary to section 346.

(4) A credit to an account is also wrongful to the extent that it derives from—

(a) theft;

(b) an offence under section 346;

(c) blackmail; or

(d) stolen goods.

(5) In determining whether a credit to an account is wrongful, it is immaterial (in particular) whether the account is overdrawn before or after the credit is made.

(6) A person guilty of an offence under this section shall be liable on summary conviction to a fine of $10,000 or to imprisonment for five years, or both and on conviction on

indictment to a fine of $100,000 or imprisonment for ten years or both.

(7) Subsection (8) applies for purposes of provisions of this Chapter relating to stolen goods (including subsection (4)).

(8) References to stolen goods include money which is dishonestly withdrawn from an account to which a wrongful credit has been made, but only to the extent that the money derives from the credit.

(9) In this section —

"account" has the same meaning as in section 346(6);

"money" includes money expressed in a currency other than the Bermuda dollar.

Possession of house breaking implements, etc.

Going equipped for stealing, etc.

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

(2) A person guilty of an offence under this section shall on summary conviction be liable to a fine of $5,000 or to imprisonment for two years and on conviction on indictment to a fine of $20,000 or imprisonment for six years or both.

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

(4) For purposes of this section an offence under section 342(1) of taking a conveyance shall be treated as theft, and "cheat" means an offence under section 345.

Enforcement and procedure

Search for stolen goods

361 (1) If it appears to a magistrate, from information given him on oath, that there is reasonable cause to believe that any person has in his custody or possession or on his premises any stolen goods, the magistrate may grant a warrant to search for and seize the same.

(2) Where under this section a person is authorised to search premises for stolen goods, he may enter and search the

premises accordingly, and may seize any goods he believes to be stolen goods.

(3) This section is to be construed in accordance with section 358.

Evidence and procedure on charge of theft or handling stolen goods

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

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

(3) Where a person is being proceeded against for handling stolen goods (but not for any offence other than handling stolen goods) then at any stage of the proceedings, if evidence has been given of his having or arranging to have in his possession the goods the subject of the charge, or of his undertaking or assisting in, or arranging to undertake or assist in, their retention, removal disposal or realisation, the following evidence shall be admissible for the purpose of proving that he knew or believed the goods to be stolen goods —

(a) evidence that he has had in his possession or has undertaken or assisted in the retention, removal, disposal or realisation of stolen goods from any theft taking place not earlier than twelve months before the offence charged; and

(b) (provided that seven days' notice in writing has been given to him of the intention to prove the conviction) evidence that he has within the five years preceding the date of the offence charged been convicted of theft or of handling stolen goods.

(4) In any proceedings for the theft of anything in the course of transmission (whether by post or otherwise), or for handling stolen goods from such a theft, a statutory declaration made by any person that he despatched or received or failed to receive any goods or postal packet, or that any goods or postal packet when despatched or received by him were in a particular state or

condition shall be admissible as evidence of the facts stated in the declaration subject to the following conditions —

(a) a statutory declaration shall be in such form as may be prescribed by the Minister of Justice, by order subject to negative resolution procedure;

(b) a statutory declaration shall only be admissible where and to the extent to which oral evidence to the like effect would have been admissible in the proceedings; and

(c) a statutory declaration shall only be admissible if at least seven days before the hearing or trial a copy of it has been given to the person charged, and he has not at least three days before the hearing or trial or within such further time as the court may in special circumstances allow, give the prosecution written notice requiring the attendance at the hearing or trial of the person making the declaration.

(5) Where the proceedings mentioned in subsection (4) are proceedings before the Magistrates' Court inquiring into an offence as examining magistrate that subsection shall have effect with the omission of paragraphs (b) and (c).

(6) This section is to be construed in accordance with section 358; and in subsection (3)(b) the reference to handling stolen goods shall include any corresponding offence committed before the commencement of this Chapter.

(7) In subsection (5) the expression "Magistrates' Court inquiring into an offence as examining magistrates" means a magistrate conducting an examination of witnesses on an information for an indictable offence under the Indictable Offences Act 1929.

General and consequential provisions

Husband and wife

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

(2) Subject to subsection (3), a person shall have the same right to bring proceedings against that person's wife or husband

for any offence (whether under this Chapter or otherwise) as if they were not married.

(3) Proceedings shall not be instituted against a person for any offence of stealing or doing unlawful damage to property which at the time of the offence belongs to that person's wife or husband, or for any attempt, incitement or conspiracy to commit such an offence, unless the proceedings are instituted by or with the consent of the Director of Public Prosecutions:

Provided that this subsection shall not apply to proceedings against a person for an offence—

(a) if that person is charged with committing the offence jointly with the wife or husband; or

(b) if by virtue of any judicial decree or order (wherever made) that person and the wife or husband are at the time of the offence under no obligation to cohabit.

(4) Subsection (3) shall apply—

(a) to an arrest (if without warrant) made by the wife or husband; and

(b) to a warrant of arrest issued on an information laid by the wife or husband.

Effect on civil proceedings and rights

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

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

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

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

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

Chapter 3: Forgery and kindred offences

Interpretation of Chapter 3

Meaning of "instrument"

365 (1) Subject to subsection (2), in this Chapter "instrument" means—

(a) any document, whether of a formal or informal character;

(b) any stamp issued or sold by the post office;

(c) any Revenue stamp; and

(d) any disc, tape, sound track or other device on or in which information is recorded or stored by mechanical, electronic or other means.

(2) A currency note within the meaning of section 163(1) is not an instrument for the purposes of this Chapter.

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

(4) In this Chapter Revenue stamp means a stamp as defined in section 1 of the Stamp Duties Act 1976.

Meaning of "false" and "making"

366 (1) An instrument is false for the purposes of this Chapter —

(a) if it purports to have been made in the form in which it is made by a person who did not in fact make it in that form; or

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

(c) if it purports to have been made in the terms in which it is made by a person who did not in fact make it in those terms;

(d) if it purports to have been made in the terms in which it is made on the authority of a person who did not in fact authorise its making in those terms;

(e) if it purports to have been altered in any respect by a person who did not in fact alter it in that respect;

(f) if it purports to have been altered in any respect on the authority of a person who did not in fact authorise the alteration in that respect;

(g) if it purports to have been made or altered on a date on which or at a place at which or otherwise in circumstances in which it was not in fact made or altered; or

(h) if it purports to have been made or altered by an existing person but he did not in fact exist.

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

Meaning of "prejudice" and "induce"
367 (1) Subject to subsections (2) and (4), for the purposes of this Chapter an act or omission intended to be induced is to a person's prejudice if, and only if, it is one which, if it occurs—

(a) will result—

(i) in his temporary or permanent loss of property;

(ii) in his being deprived of an opportunity to earn remuneration or greater remuneration; or

(iii) in his being deprived of an opportunity to gain a financial advantage otherwise than by way of remuneration; or

(b) will result in somebody being given an opportunity—

(i) to earn remuneration or greater remuneration from him; or

(ii) to gain a financial advantage from him otherwise than by way of remuneration; or

(c) will be the result of his having accepted a false instrument as genuine, or a copy of a false instrument as a copy of a genuine one, in connection with his performance of any duty.

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

(3) In this Chapter, references to inducing somebody to accept a false instrument as genuine, or a copy of a false instrument as a copy of a genuine one, include references to inducing a machine to respond to the instrument or copy as if it were a genuine instrument or, as the case may be, a copy of a genuine one.

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

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

Offences

The offence of forgery
368 A person is guilty of forgery if he makes a false instrument, with the intention that he or another shall use it to induce somebody to accept it as genuine, and by reason of so accepting it to do or not to do some act to his own or any other person's prejudice.

The offence of copying a false instrument
369 It is an offence for a person to make a copy of an instrument which is, and which he knows or believes to be, a false instrument, with the intention that he or another shall use it to induce somebody to accept it as a copy of a genuine instrument, and by reason of so accepting it to do or not to do some act to his own or any other person's prejudice.

The offence of using a false instrument

370 It is an offence for a person to use an instrument which is, and which he knows or believes to be, false, with the intention of inducing somebody to accept it as genuine and by reason of so accepting it to do or not to do some act to his own or any other person's prejudice.

The offence of using a copy of a false instrument

371 It is an offence for a person to use a copy of an instrument which is, and which he knows or believes to be, a false instrument, with the intention of inducing somebody to accept it as a copy of a genuine instrument and by reason of so accepting it to do or not to do some act to his own or any other person's prejudice.

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

372 (1) It is an offence for a person to have in his custody or under his control an instrument to which this section applies which is, and which he knows or believes to be, false, with the intention that he or another shall use it to induce somebody to accept it as genuine, and by reason of so accepting it to do or not to do some act to his own or any other person's prejudice.

(2) It is an offence for a person to have in his custody or under his control, without lawful authority or excuse, an instrument to which this section applies which is, and which he knows or believes to be, false.

(3) It is an offence for a person to make or to have in his custody or under his control a machine or implement, or paper or any other material, which to his knowledge is or has been specially designed or adapted for the making of an instrument to which this section applies, with the intention that he or another shall make an instrument to which this section applies which is false and that he or another shall use the instrument to induce somebody to accept it as genuine, and by reason of so accepting it to do or not to do some act to his own or any other person’s prejudice.

(4) It is an offence for a person to make or to have in his custody or under his control any such machine, implement, paper or material, without lawful authority or excuse.

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

(a) money orders;

(b) postal orders;

(c) Bermuda postage stamps;

(d) Revenue stamps;

(e) share certificates;

(f) passports and documents which can be used instead of passports;

(g) cheques;

(h) travellers' cheques;

(j) debit cards;

(k) credit cards;

(l) certified copies relating to an entry in a register of births, adoptions, marriages or deaths and issued by the Registrar General, a registration officer or a person lawfully authorised to register marriages; and

(m) certificates relating to entries in such registers.

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

(a) in any public stock, annuity, fund or debt of any government or state, including a state which forms part of another state; or

(b) in any stock, fund or debt of a body (whether corporate or unincorporated established in Bermuda or elsewhere.

Penalties, etc.

Penalties for offences under this Chapter

373 A person guilty of an offence under this chapter shall be liable on summary conviction to a fine of $10,000 or to imprisonment for five years, or both, and on conviction on indictment to a fine of $100,000 or to imprisonment for ten years, or both.

Powers of search, forfeiture, etc.

374 (1) If it appears to a magistrate, from information given him on oath, that there is reasonable cause to believe that a person has in his custody or under his control—

(a) any thing which he or another has used, whether before or after the coming into force of this Chapter, or intends to use, for the making of any false instrument or copy of a false instrument, in contravention of section 368 or 369; or

(b) any false instrument or copy of a false instrument which he or another has used, whether before or after the coming into force of this Chapter, or intends to use, in contravention of section 370 or 371; or

(c) any thing custody or control of which without lawful authority or excuse is an offence under section 372;

the magistrate may issue a warrant authorising a police officer to search for and seize the object in question, and for that purpose to enter any premises specified in the warrant.

(2) A police officer may at any time after the seizure of any object suspected of falling within paragraph (a), (b) or (c) of subsection (1) (whether the seizure was effected by virtue of a warrant under that subsection or otherwise) apply to the Magistrates' Court for an order under this subsection with respect to the object; and the court, if it is satisfied both that the object in fact falls within any of those paragraphs and that it is conducive to the public interest to do so, may make such order as it thinks fit for the forfeiture of the object and its subsequent destruction or disposal.

(3) Subject to subsection (4), the court by or before which a person is convicted of an offence under this Chapter may order any object shown to the satisfaction of the court to relate to the offence to be forfeited and either destroyed or dealt with in such other manner as the court may order.

(4) The court shall not order any object to be forfeited under subsection (2) or (3) where a person claiming to be the owner of or otherwise interested in it applies to be heard by the court, unless an opportunity has been given to him to show cause why the order should not be made.

Power of arrest

375 Every offence under this Part is an offence for which an offender may be arrested without warrant, and the provisions of section 454 shall apply to all such offences.

PART XX
JURISDICTION

Offences to which this Part applies

376 (1) This Part applies to two groups of offences —

(a) any offence mentioned in subsection (2) (a "Group A offence"); and

(b) any offence mentioned in subsection (3) (a "Group B offence").

(2) The Group A offences are —

(a) an offence under any of the following provisions of Part XIX —

section 331 (theft);

section 345 (obtaining property by deception);

section 346 (obtaining a money transfer by deception);

section 347 (obtaining pecuniary advantage by deception);

section 348 (obtaining services by deception);

section 349 (avoiding liability by deception);

section 351 (false accounting);

section 353 (false statements by company directors, etc.);

section 354(2) (procuring execution of valuable security by deception);

section 355 (blackmail);

section 356 (handling stolen goods);

section 359 (dishonestly retaining wrongful credit);

section 368 (forgery);

section 369 (copying a false instrument);

section 370 (using a false instrument);

section 371 (using a copy of a false instrument);

section 372 (offences which relate to money orders, share certificates, passports, etc.).

(3) The Group B offences are —

(a) conspiracy to commit a Group A offence;

(b) conspiracy to defraud;

(c) attempting to commit a Group A offence;

(d) incitement to commit a Group A offence.

(4) The Minister of Justice may by order subject to affirmative resolution procedure amend subsection (2) or (3) by adding or removing any offence

Jurisdiction in respect of Group A offences

377 (1) For the purposes of this Part, "relevant event" , in relation to any Group A offence, means any act or omission or other event (including any result of one or more acts or omissions) proof of which is required for conviction of the offence.

(2) For the purpose of determining whether or not a particular event is a relevant event in relation to a Group A offence, any question as to where it occurred is to be disregarded.

(3) A person may be guilty of a Group A offence if any of the events which are relevant events in relation to the offence occurred in Bermuda.

Questions immaterial to jurisdiction in the case of certain offences

378 (1) A person may be guilty of a Group A or Group B offence whether or not —

(a) he was a British citizen at any material time; or

(b) he was in Bermuda at any such time.

(2) On a charge of conspiracy to commit a Group A offence, or on a charge of conspiracy to defraud in Bermuda, the defendant may be guilty of the offence whether or not —

(a) he became a party to the conspiracy in Bermuda; or

(b) any act or omission or other event in relation to the conspiracy occurred in Bermuda.

(3) On a charge of attempting to commit a Group A offence, the defendant may be guilty of the offence whether or not —

(a) the attempt was made in Bermuda; or

(b) it had an effect in Bermuda.

(4) Subsection (1)(a) does not apply where jurisdiction is given to try the offence in question by an enactment which makes provision by reference to the nationality of the person charged.

Rules for determining certain jurisdictional questions relating to the location of events

379 In relation to a Group A or Group B offence —

(a) there is an obtaining of property in Bermuda if the property is either despatched from or received at a place in Bermuda; and

(b) there is a communication in Bermuda of any information, instruction, request, demand or other matter if it is sent by any means —

(i) from a place in Bermuda to a place elsewhere; or

(ii) from a place elsewhere to a place in Bermuda.

Conspiracy, attempt and incitement

380 (1) A person may be guilty of conspiracy to defraud if —

(a) a party to the agreement constituting the conspiracy, or a party's agent, did anything in Bermuda in relation to the agreement before its formation; or

(b) a party to it became a party in Bermuda (by joining it either in person or through an agent); or

(c) a party to it, or a party's agent, did or omitted anything in Bermuda in pursuance of it,

and the conspiracy would be triable in Bermuda but for the fraud which the parties to it had in view not being intended to take place in Bermuda.

(2) A person may be guilty of incitement to commit a Group A offence if the incitement —

(a) takes place in Bermuda; and

(b) would be triable in Bermuda but for what the person charged had in view not being an offence triable in Bermuda.

(3) Subsections (1) and (2) are subject to section 381.

Relevance of external law

381 (1) A person is guilty of an offence triable by virtue of section 380(1), only if the pursuit of the agreed course would at some stage involve —

(a) an act or omission by one or more of the parties; or

(b) the happening of some other event,

constituting an offence under the law in force where the act, omission or other event was intended to take place.

(2) A person is guilty of an offence triable by virtue of section 380(2), only if what he had in view would involve the commission of an offence under the law in force where the whole or any part of it was intended to take place.

(3) Conduct punishable under the law in force in any place is an offence under that law for the purposes of this section, however it is described in that law.

(4) Subject to subsection (6), a condition specified in subsection (1) or (2) shall be taken to be satisfied unless, not later than rules of court may provide, the defence serve on the prosecution a notice —

(a) stating that, on the facts as alleged with respect to the relevant conduct, the condition is not in their opinion satisfied;

(b) showing their grounds for that opinion; and

(c) requiring the prosecution to show that it is satisfied.

(5) In subsection (4) "the relevant conduct" means —

(a) where the condition in subsection (1) is in question, the agreed course of conduct; and

(b) where the condition in subsection (2) is in question, what the defendant had in view.

(6) The court, if it thinks fit, may permit the defence to require the prosecution to show that the condition is satisfied without the prior service of a notice under subsection (4).

(7) In the Supreme Court, the question whether the condition is satisfied shall be decided by the judge alone.

Application

382 Nothing in any provision in this Part applies to any act, omission or other event occurring before the coming into force of that provision.".

Part XXII of principal Act repealed
9. Part XXII (sections 406 to 423) of the principal Act is repealed.

Section 496 of the principal Act repealed and replaced
10. Section 496 of the principal Act is repealed and replaced with the following —

"Alternative conviction: general
496. (1) Where, on a person's trial on indictment for any offence except treason or murder, the jury find him not guilty of the offence specifically charged in the indictment, but the allegations in the indictment amount to or include (expressly or by implication) an allegation of another offence falling within the jurisdiction of the court of trial, the jury may find him guilty of that other offence or of an offence of which he could be found guilty on an indictment specifically charging that other offence.

(2) For the purposes of subsection (1), any allegation of an offence shall be taken as including an allegation of attempting to commit that offence.".

Section 525 of principal Act amended
11. Section 525 of the principal Act is amended by deleting the words beginning with ", subject to assent" and ending with "accused person".

Bermuda Monetary Authority Act 1969 amended
12. Section 34 of the Bermuda Monetary Authority Act 1969 is repealed.

Construction of references to offences
13. Except as regards offences committed before the commencement of this Act, and except in so far as the context otherwise requires —

(a) references in any enactment passed before this Act (including the principal Act) to an offence abolished by this Act shall, subject to any express amendment or repeal made by this Act, have effect as references to the corresponding offence under Part IX or XIX of the principal Act as repealed and replaced by this Act, and in any such enactment the expression "receive" (when it relates to an offence of receiving) shall mean handle, and "receiver" shall be construed accordingly; and

(b) without prejudice to paragraph (a), references in any enactment (including the principal Act), whenever passed, to theft or stealing (including references to stolen goods), and references to robbery, blackmail, burglary or handling stolen goods shall be construed in accordance with the provisions of Part IX or XIX of the principal Act as repealed and replaced by this Act, including those of section 358.