

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

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

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

CHAPTER XX

DUTIES RELATING TO THE PRESERVATION OF LIFE AND HEALTH

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

Responsibility of person who has charge of another

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

Duty of head of family

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

Duty of masters and mistresses

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

Duty of persons doing dangerous acts

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

Duty of persons in charge of dangerous things

CHAPTER XXI

OFFENCES CONNECTED WITH MURDER

- 215.** Any person who-
- (a) attempts unlawfully to cause the death of another; or
 - (b) with intent unlawfully to cause the death of another does any act, or omits to do any act which it is his duty to do, such act or omission being of such a nature as to be likely to endanger human life;
- is guilty of a felony and is liable to imprisonment for life.
- 216.** Any person who, being under sentence of imprisonment for three years or more, attempts to commit murder, is liable to imprisonment for life.
(As amended by No. 26 of 1933)
- 217.** Any person who becomes an accessory after the fact to murder is guilty of a felony and is liable to imprisonment for seven years.
- 218.** Any person who, knowing the contents thereof, directly or indirectly causes any person to receive any writing threatening to kill any person, is guilty of a felony and is liable to imprisonment for seven years.
- 219.** Any person who conspires with any other person to kill any person, whether such person is in Zambia or elsewhere, is guilty of a felony and is liable to imprisonment for fourteen years.
- 220.** Any person who, when a woman is delivered of a child, endeavours, by any secret disposition of the dead body of the child, to conceal the birth, whether the child died before, at, or after its birth, is guilty of a misdemeanour.
- 221.** (1) Subject as hereinafter in this subsection provided, any person who, with intent to destroy the life of a child capable of being born alive, by any wilful act causes a child to die before it has an existence independent of its mother, is guilty of felony, to wit, of child destruction, and is liable on conviction thereof to imprisonment for life:

Attempt to murder

Attempt to murder by convict

Accessory after the fact to murder

Written threat to murder

Conspiracy to murder

Concealing the birth of children

Child destruction

Provided that no person shall be found guilty of an offence under this section unless it is proved that the act which caused the death of the child was not done in good faith for the purpose only of preserving the life of the mother.

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

(No. 28 of 1931)

CHAPTER XXII

OFFENCES ENDANGERING LIFE OR HEALTH

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

Disabling with intent to commit felony or misdemeanour

(As amended by No. 26 of 1933)

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

Stupefying with intent to commit felony or misdemeanour

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

Acts intended to cause grievous harm or prevent arrest

- (a) unlawfully wounds or does any grievous harm to any person by any means whatever; or
- (b) unlawfully attempts in any manner to strike any person with any kind of projectile or with a spear, sword, knife, or other dangerous or offensive weapon; or
- (c) unlawfully causes any explosive substance to explode; or
- (d) sends or delivers any explosive substance or other dangerous or noxious thing to any person; or
- (e) causes any such substance or thing to be taken or received by any person; or
- (f) puts any corrosive fluid or any destructive or explosive substance in any place; or
- (g) unlawfully casts or throws any such fluid or substance at or upon any person, or otherwise applies any such fluid or substance to the person of any person;

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

225. Any person who unlawfully-

Preventing escape
from wreck

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

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

226. (1) Any person who, with intent either to injure or endanger the safety of any person travelling by any railway, whether a particular person or not, or to affect or endanger the free and safe use of any railway or who, with intent to derail or cause to be derailed any railway engine, tender, wagon or carriage-

Acts endangering
railways and persons
travelling thereon

- (a) places anything on such railway; or
- (b) interferes with such railway or with anything whatsoever upon or near such railway; or
- (c) shoots or throws anything at, into or upon, or causes anything to come into contact with, any person or thing on such railway; or
- (d) shows any light or signal or in any way deals with any existing light or signal upon or near such railway; or
- (e) wilfully fails to do any act which it is his duty to do;

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

(2) Subject to the provisions of the Juveniles Act, where a person has been convicted of an offence under subsection (1) and his intent was to derail or cause to be derailed any railway engine, tender, wagon or carriage, he shall be sentenced to not less than five years' imprisonment.

Cap. 53

(No. 34 of 1960)

227. (1) Any person who, save with the express authority of the Zambia Railways or with some other lawful authority or lawful excuse, enters or remains or is found upon any portion of the railway reserve is guilty of a misdemeanour and is liable to a fine not exceeding three thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

Trespass on railway

(2) Any person guilty of an offence under the provisions of subsection (1) who was, at the time such offence was committed, in possession without lawful excuse of any article or implement capable of being used to destroy, damage or dismantle any railway line or part thereof or any railway engine or rolling stock using such railway line, is guilty of a felony and is liable to imprisonment for a period not exceeding fourteen years.

The Laws of Zambia

(3) Without prejudice to any other defence which may be open to him, a person shall be deemed to have lawful authority for the purposes of this section if he proves-

- (a) that he was on a public way or an authorised path; or
- (b) that he was on a portion of the railway reserve upon which members of the public are admitted for the purposes of the Zambia Railways.

(4) A Divisional Commander of Police may, in his discretion and after consultation with the Zambia Railways, authorise such paths across the railway reserve as he deems necessary for the passage of persons across such reserve, and any path so authorised-

- (a) shall be entered in a register kept or caused to be kept by the Divisional Commander of Police concerned; and
- (b) shall be signposted by the Zambia Railways in such manner as the Minister responsible for power, transport and works may from time to time, by statutory notice, prescribe.

(5) In any proceedings under the provisions of this section-

- (a) the onus of proving that any person had express or other authority or had lawful excuse shall lie upon such person; and
- (b) every railway line, other than the Zambesi Sawmills Railway Line, over which goods and passengers are carried for fee or reward shall be presumed to be owned by the Zambia Railways unless the contrary is proved; and
- (c) any document purporting to be an extract or copy of any entry in a register kept under the provisions of subsection (4) and to be certified under the hand of a police officer of or above the rank of Sub-Inspector shall be received in evidence as to the matters stated therein.

(6) For the purposes of this section-

"authorised path" means a path entered in any register kept under the provisions of subsection (4);

"railway reserve" means the strip of land along any railway line owned by the Zambia Railways extending-

- (a) where the said line consists of a single track, for a distance of one hundred feet outwards from each rail; and

The Laws of Zambia

(b) where the said line consists of two or more tracks, for a distance of one hundred feet outwards from the outermost rail on each side of such tracks; and including all the land between the outermost rails.

(No. 34 of 1960 as amended by G.N. No. 493 of 1964 and No. 24 of 1977)

228. Any person who, with intent either to injure or to endanger the safety of any person travelling in any motor vehicle as defined in the Roads and Road Traffic Act, shoots or throws anything at, into or upon or causes anything to come into contact with any such person or any such vehicle, is guilty of a felony and is liable to imprisonment for life.

Acts endangering the safety of persons travelling in motor vehicles.
Cap. 464

(No. 26 of 1961)

229. Any person who unlawfully does grievous harm to another is guilty of a felony and is liable to imprisonment for seven years.

Grievous harm

230. Any person who unlawfully, and with intent to do any harm to another, puts any explosive substance in any place whatever, is guilty of a felony and is liable to imprisonment for fourteen years.

Attempting to injure by explosive substances

231. Any person who unlawfully, and with intent to injure or annoy another, causes any poison or noxious thing to be administered to, or taken by, any person, and thereby endangers his life, or does him some grievous harm, is guilty of a felony and is liable to imprisonment for fourteen years.

Maliciously administering poison with intent to harm

232. Any person who-

Unlawful wounding or poisoning

(a) unlawfully wounds another; or

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

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

233. Any person who, being charged with the duty of providing for another the necessaries of life, without lawful excuse fails to do so, whereby the life of that other person is or is likely to be endangered, or his health is or is likely to be permanently injured, is guilty of a felony and is liable to imprisonment for three years.

Failure to supply necessaries

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

Responsibility as to surgical operation

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

236. Notwithstanding anything contained in section *two hundred and thirty-five*, consent by a person to the causing of his own death or his own maim does not affect the criminal responsibility of any person by whom such death or maim is caused. Exception

CHAPTER XXIII

CRIMINAL RECKLESSNESS AND NEGLIGENCE

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

- (a) drives any vehicle or rides on any public way; or
- (b) navigates, or takes part in the navigation or working of any vessel; or
- (c) does any act with fire or any combustible matter, or omits to take precautions against any probable danger from any fire or any combustible matter in his possession; or
- (d) omits to take precautions against any probable danger from any animal in his possession; or
- (e) gives medical or surgical treatment to any person whom he has undertaken to treat; or
- (f) dispenses, supplies, sells, administers, or gives away any medicine or poisonous or dangerous matter; or
- (g) does any act with respect to, or omits to take proper precautions against any probable danger from any machinery of which he is solely or partly in charge;

is guilty of a misdemeanour.

(As amended by No. 45 of 1969)

238. Any person who unlawfully does any act, or omits to do any act which it is his duty to do, not being an act or omission specified in the preceding section, by which act or omission harm is caused to any person, is guilty of a misdemeanour and is liable to imprisonment for six months. Unlawful acts causing harm

The Laws of Zambia

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

Dealing with
poisonous substances
in negligent manner

(No. 26 of 1940 and Act No. 13 of 1994)

240. Any person who, by any unlawful act or omission not specified in section *two hundred and twenty-six*, causes the safety of any person travelling by any railway to be endangered, is guilty of a misdemeanour.

Endangering safety of
persons travelling by
railway

241. Any person who exhibits any false light, mark or buoy, intending or knowing it to be likely that such exhibition will mislead any navigator, is liable to imprisonment for seven years.

Exhibition of false
light, mark or buoy

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

Conveying person by
water for hire in unsafe
or overloaded vessel

243. (1) Any person who, without lawful cause or reasonable excuse, does any act with intent to obstruct or impede the navigation by any vessel of any waters capable of being used for navigation is guilty of an offence and is liable on conviction to imprisonment for a period not exceeding three years.

Obstruction of
waterways

(2) For the purposes of this section, "vessel" includes any canoe, boat, ship or raft.

(No. 18 of 1962)

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

Danger or obstruction
in public way or line of
navigation

245. (1) Any person who enters upon an aerodrome is guilty of a misdemeanour unless such person proves-

Trespass on
aerodromes

(a) that he did not know that the land on which he entered was an aerodrome;
or

(b) that he had reasonable cause for being on such aerodrome.

(2) Any person who, being in charge of an animal, causes or permits such animal to trespass on an aerodrome is guilty of a misdemeanour.

(3) A misdemeanour under this section is punishable with imprisonment for a period not exceeding one month or with a fine not exceeding seven hundred and fifty penalty units, or both.

(4) For the purposes of this section, "aerodrome" includes an airport, landing ground, or other place normally used by aircraft for landing and taking off.

(No. 28 of 1949 and Act No. 13 of 1994)

246. (1) Any person who, without lawful cause or reasonable excuse, does any act with intent to obstruct, whether partially or otherwise, any road or runway is guilty of an offence and is liable on conviction to imprisonment for a period not exceeding three years. Obstruction of roads or runways

(2) For the purposes of this section-

Cap. 464

"road" shall have the meaning assigned to it by section two of the Roads and Road Traffic Act;

"runway" includes any landing ground or other place ordinarily used by aircraft for landing or taking off.

(No. 18 of 1962)

CHAPTER XXIV

ASSAULTS

247. Any person who unlawfully assaults another is guilty of a misdemeanour and, if the assault is not committed in circumstances for which a greater punishment is provided in this Code, is liable to imprisonment for one year. Common assault

248. Any person who commits an assault occasioning actual bodily harm is guilty of a misdemeanour and is liable to imprisonment for five years. Assaults occasioning actual bodily harm

249. Any person who assaults and strikes or wounds any magistrate, officer, or other person lawfully authorised in or on account of the execution of his duty in or concerning the preservation of any vessel in distress, or of any vessel or goods or effects wrecked, stranded, or cast on shore, or lying under water, is guilty of a felony and is liable to imprisonment for seven years. Assaults on persons protecting wrecks

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

Assaults punishable with five years' imprisonment

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

CHAPTER XXV

OFFENCES AGAINST LIBERTY

- 251.** Any person who conveys any person beyond the limits of Zambia without the consent of that person, or of some person legally authorised to consent on behalf of that person, is said to kidnap that person from Zambia.
- Definition of kidnapping from Zambia
- 252.** Any person who takes or entices any minor under fourteen years of age if a male, or under sixteen years of age if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship.
- Definition of kidnapping from lawful guardianship
- 253.** Any person who by force compels, or by any deceitful means induces, any person to go from any place, is said to abduct that person.
- Definition of abduction
- 254.** Any person who kidnaps any person from Zambia or from lawful guardianship, is guilty of a felony and is liable to imprisonment for seven years.
- Punishment for kidnapping
- 255.** Any person who kidnaps or abducts any person in order that such person may be murdered, or may be so disposed of as to be put in danger of being murdered, is guilty of a felony and is liable to imprisonment for ten years.
- Kidnapping or abducting in order to murder
- 256.** Any person who kidnaps or abducts any person with intent to cause that person to be secretly and wrongfully confined, is guilty of a felony and is liable to imprisonment for seven years.
- Kidnapping or abducting with intent to confine person

The Laws of Zambia

- 257.** Any person who kidnaps or abducts any person in order that such person may be subjected, or may be so disposed of as to be put in danger of being subjected, to grievous harm, or slavery, or to the unnatural lust of any person, or knowing it to be likely that such person will be so subjected or disposed of, is guilty of a felony and is liable to imprisonment for ten years. Kidnapping or abducting in order to subject person to grievous harm, slavery, etc.
- 258.** Any person who, knowing that any person has been kidnapped or has been abducted, wrongfully conceals or confines such person, is guilty of a felony and shall be punished in the same manner as if he had kidnapped or abducted such person with the same intention or knowledge, or for the same purpose, as that with or for which he conceals or detains such person in confinement. Wrongfully concealing or keeping in confinement kidnapped or abducted person
- 259.** Any person who kidnaps or abducts any child under the age of fourteen years with the intention of taking dishonestly any movable property from the person of such child, is guilty of a felony and is liable to imprisonment for seven years. Kidnapping or abducting child under fourteen with intent to steal from its person
- 260.** Whoever wrongfully confines any person is guilty of a misdemeanour and is liable to imprisonment for one year or to a fine not exceeding six thousand penalty units. Punishment for wrongful confinement
(No. 26 of 1940 and Act No. 13 of 1994)
- 261.** Any person who imports, exports, removes, buys, sells or disposes of any person as a slave, or accepts, receives or detains against his will any person as a slave, is guilty of a felony and is liable to imprisonment for seven years. Buying or disposing of any person as a slave
- 262.** Any person who habitually imports, exports, removes, buys, sells, traffics or deals in slaves is guilty of a felony and is liable to imprisonment for ten years. Habitual dealing in slaves
- 263.** Any person who unlawfully compels any person to labour against the will of that person is guilty of a misdemeanour. Unlawful compulsory labour

DIVISION V

OFFENCES RELATING TO PROPERTY

CHAPTER XXVI

THEFT

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

The Laws of Zambia

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

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

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

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

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

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

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

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

Definition of theft

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

- (a) an intent permanently to deprive the general or special owner of the thing of it;
- (b) an intent to use the thing as a pledge or security;
- (c) an intent to part with it on a condition as to its return which the person taking or converting it may be unable to perform;

- (d) an intent to deal with it in such a manner that it cannot be returned in the condition in which it was at the time of the taking or conversion;
- (e) in the case of money, an intent to use it at the will of the person who takes or converts it, although he may intend afterwards to repay the amount to the owner.

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

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

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

(6) For the purposes of this section, "special owner" includes any person who has any charge or lien upon the thing in question, or any right arising from or dependent upon holding possession of the thing in question.

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

Special cases

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

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

Funds, etc., held under direction

(As amended by No. 9 of 1968)

- 268.** When a person receives, either alone or jointly with another person, any property from another on terms authorising or requiring him to sell it or otherwise dispose of it, and requiring him to pay or account for the proceeds of the property, or any part of such proceeds, or to deliver anything received in exchange for the property, to the person from whom it is received, or some other person, then the proceeds of the property, and anything so received in exchange for it, are deemed to be the property of the person from whom the property was so received, until they have been disposed of in accordance with the terms on which the property was received, unless it is a part of those terms that the proceeds, if any, shall form an item in a debtor and creditor account between him and the person to whom he is to pay them or account for them, and that the relation of debtor and creditor only shall exist between them in respect thereof.
- Funds, etc., received by agents for sale
- 269.** When a person receives, either alone or jointly with another person, any money on behalf of another, the money is deemed to be the property of the person on whose behalf it is received, unless the money is received on the terms that it shall form an item in a debtor and creditor account, and that the relation of debtor and creditor only shall exist between, the parties in respect of it.
- Money received for another
- 270.** When any person takes or converts anything capable of being stolen, under such circumstances as would otherwise amount to theft, it is immaterial that he himself has a special property or interest therein, or that he himself is the owner of the thing taken or converted subject to some special property or interest of some other person therein, or that he is lessee of the thing, or that he himself is one of two or more joint owners of the thing, or that he is a director or officer of a corporation or company or society who are the owners of it.
- Theft by persons having an interest in the thing stolen
- 271.** A person who, while a man and his wife are living together, procures either of them to deal with anything which is, to his knowledge, the property of the other in a manner which would be theft if they were not married, is deemed to have stolen the thing, and may be charged with theft.
- Husband and wife
- 272.** Any person who steals anything capable of being stolen is guilty of the felony termed "theft", and, unless owing to the circumstances of the theft or the nature of the thing stolen some other punishment is provided, is liable to imprisonment for five years.
- General punishment for theft
- (As amended by Act No. 29 of 1974)*
- 273.** If the thing stolen is a testamentary instrument, whether the testator is living or dead, the offender is liable to imprisonment for ten years.
- Stolen wills
- (As amended by No. 28 of 1931)*
- 274.** If the thing stolen is postal matter or any chattel, money, or valuable security contained in any postal matter, the offender is liable to imprisonment for ten years.
- Stealing postal matter, etc.

The Laws of Zambia

275. (1) If the thing stolen is any of the following, that is to say: a horse, mare, gelding, ass, mule, camel, ostrich, ram, ewe, wether, goat or pig, or the young of any such animal, the offender is liable- Stock theft

- (a) in the case of a first offence, to imprisonment not exceeding fifteen years;
- (b) in the case of a second and subsequent offence to imprisonment for a period of not less than seven years and not exceeding fifteen years.

(2) If the thing stolen is a bull, cow or ox, or the young of any such animal, the offender is liable to imprisonment for a period-

- (a) in the case of a first offence, of not less than five years and not exceeding fifteen years;
- (b) in the case of a second or subsequent offence, of not less than seven years and not exceeding fifteen years.

275A. (1) Notwithstanding subsection (2) of section *twenty-six*, if the thing stolen is copper cathodes, copper bars, cobalt, lead, zinc or vanadium the offender is liable to imprisonment for a period not exceeding fifteen years. Stealing copper cathodes, copper bars, cobalt, lead, zinc or vanadium

(2) Where a person is convicted of an offence under this Act the court which convicts him shall, in addition to any other penalty imposed under subsection (1), order the forfeiture of all the property which is the subject of that offence or which has been used for the commission of that offence:

Provided that no conveyance which has been used for the commission of the offence shall be forfeited if the offence was committed by a person other than the owner or person in charge of the conveyance and it is proved to the court that the use of the conveyance for the commission of the offence was without the consent and knowledge of the owner or person in charge of the conveyance and was not due to any neglect, default or lack of reasonable care by the owner or the person in charge of the conveyance.

(3) Where it is proved to the satisfaction of the court that an offence has been committed under this Section, the court shall make an order for the forfeiture of all property which is the subject matter of that offence or which has been used for the commission of that offence, notwithstanding that no person may have been convicted of the offence:

Provided that the proviso to subsection (2) shall apply in relation to an order for forfeiture under this subsection.

(As amended by Act No. 23 of 1993)

- 276.** If a theft is committed under any of the circumstances following, that is to say:
- (a) if the thing is stolen from the person of another;
 - (b) if the thing is stolen in a dwelling-house and its value exceeds one hundred and fifty fee units or the offender, at or immediately before or after the time of stealing uses or threatens to use violence to any person in the dwelling-house;
 - (c) if the thing is stolen from any kind of vessel or vehicle or place of deposit used for the conveyance or custody of goods in transit from one place to another;
 - (d) if the thing stolen is attached to or forms part of a railway;
 - (e) if the thing is stolen from a vessel which is in distress or wrecked or stranded;
 - (f) if the thing is stolen from a public office in which it is deposited or kept;
 - (g) if the offender, in order to commit the offence, opens any locked room, box, or other receptacle, by means of a key or other instrument;

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

the offender is liable to imprisonment for seven years.

(As amended by Act No. 13 of 1994)

- 277.** If the offender is a person employed in the public service and the thing stolen is the property of the Government, a local authority or a corporation, body or board, including an institution of higher learning in which the Government has a majority or controlling interest, or came into his possession by virtue of his employment, he is liable to imprisonment for fifteen years.

Stealing by persons in public service

(As amended by Act No. 29 of 1974)

- 278.** If the offender is a clerk or servant and the thing stolen is the property of his employer, or came into the possession of the offender on account of his employer, he is liable to imprisonment for seven years.

Stealing by clerks and servants

- 279.** If the offender is a director or officer of a corporation or company and the thing stolen is the property of the corporation or company, he is liable to imprisonment for seven years

Stealing by directors or officers of companies

- 280.** If the thing stolen is any of the things following, that is to say:
- (a) property which has been received by the offender with a power of attorney for the deposition thereof;
 - (b) property which has been entrusted to the offender either alone or jointly with any other person for him to retain in safe custody or to apply, pay, or deliver for any purpose or to any person the same or any part thereof or any proceeds thereof;
 - (c) property which has been received by the offender either alone or jointly with any other person for or on account of any other person;

Stealing by agents etc.

The Laws of Zambia

- (d) the whole or part of the proceeds of any valuable security which has been received by the offender with a direction that the proceeds thereof should be applied to any purpose or paid to any person specified in the direction;
- (e) the whole or part of the proceeds arising from any disposition of any property which has been received by the offender by virtue of a power of attorney for such disposition, such power of attorney having been received by the offender with a direction that such proceeds should be applied to any purpose or paid to any person specified in the direction;

the offender is liable to imprisonment for seven years.

281. If the thing stolen is a fixture or chattel let to the offender to be used by him with a house or lodging and its value exceeds one hundred and fifty fee units, he is liable to imprisonment for seven years. Stealing by tenants or lodgers

(As amended by Act No. 13 of 1994)

281A. (1) If the thing stolen is a motor vehicle, the offender is liable to imprisonment for a period- Stealing of motor vehicle

- (a) in the case of a first offence, of not less than five years and not exceeding fifteen years;
- (b) in the case of a second or subsequent offence, of not less than seven years and not exceeding fifteen years.

(2) In this section, "motor vehicle" means a motor vehicle or trailer-

- (a) which is registered or registrable under the provisions of section *sixty-six* of the Roads and Road Traffic Act; or Cap. 464
- (b) which is exempted from the need for registration under any of the provisions of the Roads and Road Traffic Act or any regulation made thereunder. Cap. 464

(As amended by Act No. 9 of 1974)

282. Repealed by Act No. 29 of 1974

CHAPTER XXVII

OFFENCES ALLIED TO STEALING

The Laws of Zambia

- 283.** Any person who, with intent to defraud, conceals or takes from its place of deposit any register which is authorised or required by law to be kept for authenticating or recording the title to any property, or for recording births, baptisms, marriages, deaths or burials, or a copy of any part of any such register which is required by law to be sent to any public office, is guilty of a felony and is liable to imprisonment for ten years. Concealing registers
- 284.** Any person who, with intent to defraud, conceals any testamentary instrument, whether the testator is living or dead, is guilty of a felony and is liable to imprisonment for ten years. Concealing wills
- 285.** Any person who, with intent to defraud, conceals the whole or part of any document which is evidence of title to any land or estate in land, is guilty of a felony and is liable to imprisonment for three years. Concealing deeds
- 286.** Any person who kills any animal capable of being stolen with intent to steal the skin or carcass, or any part of the skin or carcass, is guilty of an offence and is liable to the same punishment as if he had stolen the animal. Killing animals with intent to steal
- 287.** Any person who makes anything movable with intent to steal it is guilty of an offence and is liable to the same punishment as if he had stolen the thing after it had become movable. Severing with intent to steal
- 288.** (1) Any person who, being the mortgagor of mortgaged goods, removes or disposes of the goods without the consent of the mortgagee, and with intent to defraud, is guilty of a misdemeanour. Fraudulent disposition of mortgaged goods
- (2) In this section, "mortgaged goods" includes any goods and chattels of any kind, and any animals, and any progeny of any animals, and any crops or produce of the soil, whether growing or severed, which are subject for the time being, by virtue of the provisions of any Act or of any written instrument, to a valid charge or lien by way of security for any debt or obligation.
- 289.** Notwithstanding subsection (2) of section *twenty-six*, any person who takes, conceals, or otherwise disposes of any ore or any metal or mineral with intent to defraud any person, is guilty of a felony and is liable to imprisonment for a period not exceeding fifteen years. Fraudulently dealing with metals or minerals
- (As amended by Act No. 23 of 1993)
- 290.** Any person who fraudulently abstracts or diverts to his own use or to the use of any other person any mechanical, illuminating, or electrical power derived from any machine, apparatus, or substance, the property of another person, is guilty of a felony and is liable to imprisonment for five years. Fraudulent appropriation of power

291. Any person who unlawfully and without colour of right, but not so as to be guilty of theft, takes or converts to his use or to the use of any other person any draught or riding animal or any vehicle or cycle however propelled, or any vessel, is guilty of a misdemeanour and is liable to imprisonment for six months or to a fine not exceeding one thousand five hundred penalty units, or to both.

Conversion not amounting to theft

(As amended by Act No. 13 of 1994)

CHAPTER XXVIII

ROBBERY AND EXTORTION

292. Any person who steals anything, and, at or immediately before or immediately after the time of stealing it, uses or threatens to use actual violence to any person or property to obtain or retain the thing stolen or to prevent or overcome resistance to its being stolen or retained, is guilty of the felony of robbery and is liable on conviction to imprisonment for fourteen years.

Robbery

(No. 18 of 1963)

293. Any person who assaults any person with intent to steal anything is guilty of a felony and is liable on conviction to imprisonment for seven years.

Assault with intent to steal

(No. 18 of 1963)

294. (1) Any person who, being armed with any offensive weapon or instrument, or being together with one person or more, steals anything, and, at or immediately before or immediately after the time of stealing it, uses or threatens to use actual violence to any person or property to obtain or retain the thing stolen or to prevent or overcome resistance to its being stolen or retained, is guilty of the felony of aggravated robbery and is liable on conviction to imprisonment for life, and, notwithstanding subsection (2) of section *twenty-six*, shall be sentenced to imprisonment for a period of not less than fifteen years.

Aggravated robbery

(2) Notwithstanding the provisions of subsection (1), the penalty for the felony of aggravated robbery under subsection (1) shall be death-

- (a) where the offensive weapon or instrument is a firearm, unless the court is satisfied by the evidence in the case that the accused person was not armed with a firearm and-
 - (i) that he was not aware that any of the other persons involved in committing the offence was so armed; or
 - (ii) that he dissociated himself from the offence immediately on becoming so aware; or
- (b) where the offensive weapon or instrument is not a firearm and grievous harm is done to any person in the course of the offence, unless the court is satisfied by the evidence in the case that the accused person neither contemplated nor could reasonably have contemplated that grievous harm might be inflicted in the course of the offence.

(3) In this section "firearm" has the meaning assigned to it in section *two* of the Firearms Act. Cap. 110

(No. 18 of 1963 as amended by No. 40 of 1969 and Act No. 29 of 1974)

295. Any person who, being armed with any offensive weapon or instrument, or being together with one person or more, assaults any person with intent to steal anything, is guilty of a felony and is liable on conviction to imprisonment for a period (notwithstanding subsection (2) of section *twenty-six*) of not less than ten years and not exceeding twenty years. Aggravated assault with intent to steal

(No. 18 of 1963 as amended by No. 40 of 1969)

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

297. (1) Any person who, with intent to extort or gain anything from any person- Attempts at extortion by threats

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

(b) threatens that any person shall be accused by any other person of any felony or misdemeanour, or of any such act; or

(c) knowing the contents of the writing, causes any person to receive any writing containing any such accusation or threat as aforesaid;

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

(i) an offence for which the punishment of death or imprisonment for life may be inflicted; or

(ii) any of the offences defined in Chapter XV, or an attempt to commit any of such offences; or

(iii) an assault with intent to have carnal knowledge of any person against the order of nature, or an unlawful and indecent assault upon a male person; or

(iv) a solicitation or threat offered or made to any person as an inducement to commit or permit the commission of any of the offences aforesaid;

the offender is liable to imprisonment for fourteen years. In any other case the offender is liable to imprisonment for three years.

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

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

Procuring execution of deeds, etc., by threats

(a) to execute, make, accept, endorse, alter, or destroy the whole or any part of any valuable security; or

(b) to write any name or impress or affix any seal upon or to any paper or parchment, in order that it may be afterwards made or converted into or used or dealt with as a valuable security;

is guilty of a felony and is liable to imprisonment for fourteen years.

299. Any person who, with intent to steal any valuable thing, demands it from any person with menaces or force, is guilty of a felony and is liable to imprisonment for five years.

Demanding property with menaces with intent to steal

CHAPTER XXIX

BURGLARY, HOUSEBREAKING AND SIMILAR OFFENCES

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

Definition of breaking and entering

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

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

The Laws of Zambia

301. Any person who-

- (a) breaks and enters any dwelling house with intent to commit a felony therein; or
- (b) having entered any dwelling house with intent to commit a felony therein, or having committed a felony in any such dwelling house, breaks out thereof;

House-breaking and burglary

is guilty of the felony termed "housebreaking" and is liable to imprisonment for seven years. If the offence is committed in the night, it is termed "burglary" and the offender is liable to imprisonment for ten years.

(As amended by Act No. 3 of 1990)

302. (1) Any person who enters or is in any dwelling house with intent to commit a felony in it is guilty of a felony and liable upon conviction to imprisonment for a period not exceeding five years or if the offence is committed at night to imprisonment for a period not exceeding seven years.

Entering dwelling house or other building with intent to commit felony

(2) Any person who enters or is in any building other than a dwelling house, with intent to commit a felony in it is guilty of a felony and liable upon conviction to imprisonment for a period not exceeding five years or if the offence is committed at night to imprisonment for a period not exceeding seven years.

(As amended by Act No. 3 of 1990)

303. Any person who-

- (a) breaks and enters into any building other than a dwelling house and commits a felony in it; or
- (b) having committed a felony in any building other than a dwelling house, breaks out of it, is guilty of a felony and is liable to imprisonment for seven years;

Breaking into building and committing felony

is guilty of a felony and is liable to imprisonment for seven years.

(As amended by Act No. 3 of 1990)

304. Any person who breaks and enters a schoolhouse, shop, warehouse, store, office, or counting-house, or a building which is adjacent to a dwelling-house and occupied with it but is not part of it, or any building used as a place of worship with intent to commit a felony therein, is guilty of a felony and is liable to imprisonment for five years.

Breaking into building with intent to commit felony

- 305.** Any person who is found under any of the circumstances following, that is to say:
- Persons found armed, etc., with intent to commit felony
- (a) being armed with any dangerous or offensive weapon or instrument, and being so armed with intent to break or enter a dwelling-house, and to commit a felony therein;
 - (b) being armed as aforesaid by night, and being so armed with intent to break or enter any building whatever, and to commit a felony therein;
 - (c) having in his possession by night without lawful excuse, the proof of which lies on him, any instrument of housebreaking, explosive or petroleum;
 - (d) having in his possession by day any such instrument, explosive or petroleum with intent to commit a felony;
 - (e) having his face masked or blackened or being otherwise disguised with intent to commit a felony;
 - (f) being in any building whatever by night with intent to commit a felony therein;
 - (g) being in any building whatever by day with intent to commit a felony therein, and having taken precautions to conceal his presence;

is guilty of a felony and is liable to imprisonment for three years. If the offender has been previously convicted of a felony relating to property, he is liable to imprisonment for seven years.

(As amended by No. 7 of 1960)

- 306.** Any person who-
- Criminal trespass
- (a) unlawfully enters into or upon any property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property;
 - (b) having lawfully entered into or upon such property unlawfully remains there with intent thereby to intimidate, insult or annoy any such person or with intent to commit any offence;

is guilty of the misdemeanour termed "criminal trespass" and is liable to imprisonment for three months. If the property upon which the offence is committed is any building, tent or vessel used as a human dwelling or any building used as a place of worship or as a place for the custody of property, the offender is liable to imprisonment for one year.

(No. 26 of 1940)

307. When any person is convicted of an offence under this Chapter, the court shall order that any dangerous or offensive weapon or instrument of housebreaking carried or used in connection with any such offence shall be forfeited.

Forfeiture

(As amended by S.I. No. 63 of 1964 and No. 5 of 1972)

CHAPTER XXX

FALSE PRETENCES

The Laws of Zambia

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

Definition of false pretence

(As amended by No. 5 of 1972)

309. Any person who, by any false pretence and with intent to defraud, obtains from any other person anything capable of being stolen, or induces any other person to deliver to any person anything capable of being stolen, is guilty of a misdemeanour and is liable to imprisonment for three years.

Obtaining goods by false pretences

309A. (1) Any person who, by any false pretence, dishonestly obtains for himself or another any pecuniary advantage, is guilty of a misdemeanour and is liable to imprisonment for five years.

Obtaining pecuniary advantage by false pretences

(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) any debt or charge for which he makes himself liable or is or may become liable (including one not legally enforceable) is reduced or in whole or in part evaded or deferred; or
- (b) 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
- (c) he is given the opportunity to earn remuneration or greater remuneration in an office or employment, or to win money by betting.

(No. 5 of 1972)

310. Any person who, by any false pretence and with intent to defraud, induces any person to execute, make, accept, endorse, alter, or destroy the whole or any part of any valuable security, or to write any name or impress or affix any seal upon or to any paper or parchment in order that it may be afterwards made or converted into or used or dealt with as a valuable security, is guilty of a misdemeanour and is liable to imprisonment for three years.

Obtaining execution of a security by false pretences

- 310A.** An intent to deceive exists where one person induces another person- Intent to deceive
- (a) to believe that a thing is true which is false, and which the person practising the deceit knows or believes to be false; or
 - (b) to believe a thing to be false which is true, and which the person practising the deceit knows or believes to be true;

and in consequence of having been so induced does or omits to do an act whether or not any injury or loss is thereby suffered by any person.

(As amended by Act No. 5 of 1972)

311. Any person who, by means of any fraudulent trick or device, obtains from any other person anything capable of being stolen or induces any other person to deliver to any person anything capable of being stolen or to pay or deliver to any person any money or goods or any greater sum of money or greater quantity of goods than he would have paid or delivered but for such trick or device, is guilty of a misdemeanour and is liable to imprisonment for three years. Cheating

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

is guilty of a misdemeanour and is liable to imprisonment for one year.

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

314. Any person who, being a seller or mortgagor of any property, or being the solicitor or agent of any such seller or mortgagor, with intent to induce the purchaser or mortgagee to accept the title offered or produced to him, and with intent to defraud- Frauds on sale or mortgage of property

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

is guilty of a misdemeanour.

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

316. Any person who wilfully procures or attempts to procure for himself or any other person any registration, licence or certificate under any Act by any false pretence, is guilty of a misdemeanour and is liable to imprisonment for one year.

Obtaining registration, etc., by false pretences

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

False declaration for passport

CHAPTER XXXI

RECEIVING PROPERTY STOLEN OR UNLAWFULLY OBTAINED AND LIKE OFFENCES

318. (1) Any person who receives or retains any chattel, money, valuable security or other property whatsoever, knowing or having reason to believe the same to have been feloniously stolen, taken, extorted, obtained or disposed of, is guilty of a felony and is liable to imprisonment for seven years.

Receiving stolen property, etc.

(2) Any person who received or retains any chattel, money, valuable security or other property whatsoever, knowing or having reason to believe the same to have been unlawfully taken, obtained, converted or disposed of in a manner which constitutes a misdemeanour, is guilty of a misdemeanour and is liable to the same punishment as the offender by whom the property was unlawfully obtained, converted or disposed of.

Receiving property unlawfully obtained

(As amended by No. 26 of 1940)

319. Any person who shall be brought before a court charged with-

- (a) having in his possession anything which may be reasonably suspected of having been stolen or unlawfully obtained; or
- (b) conveying in any manner anything which may be reasonably suspected of having been stolen or unlawfully obtained;

Person suspected of having or conveying stolen property

and who shall not give an account to the satisfaction of such court of how he came by the same, is guilty of a misdemeanour.

(No. 22 of 1969)

320. Every person who, without lawful excuse, knowing or having reason to believe the same to have been stolen or obtained in any way whatsoever under such circumstances that if the act had been committed in Zambia the person committing it would have been guilty of felony or misdemeanour, receives or has in his possession any property so stolen or obtained outside Zambia, is guilty of an offence of the like degree (whether felony or misdemeanour) and is liable to imprisonment for seven years.

Receiving goods stolen outside Zambia

(No. 26 of 1940)

CHAPTER XXXII

ILLEGAL POSSESSION OF DIAMONDS AND EMERALDS

321. (1) Any person who, without the written permission of the Chief Mining Engineer, has in his possession or disposes of any diamond or emerald shall be guilty of a misdemeanour. Illegal possession of diamonds or emeralds

(2) For the purposes of this section-

Cap. 213

"Chief Mining Engineer" means the person appointed as such in pursuance of section six of the Mines and Minerals Act, 1969;

"diamond" means any rough or uncut diamond and includes any diamond which has been partially cut, shaped or polished out of the rough;

"emerald" means any rough or uncut emerald and includes any emerald which has been partially cut, shaped or polished out of the rough.

(3) Any police officer of or above the rank of Sub Inspector may arrest without warrant any person reasonably suspected by him of having committed or of attempting to commit an offence under this section.

322. (1) When a person has been found guilty by a court of an offence under section *three hundred and twenty one* in addition to any other punishment imposed on the accused person, the diamonds or emeralds in respect of which the offence has been committed shall be forfeited to the state upon such finding by the court. Forfeiture on conviction

(2) Any diamonds or emeralds which have been forfeited under subsection (1) shall be released to the Minister of Finance or such other person as may be authorised by him in writing.

(As amended by Act No. 5 of 1972)

CHAPTER XXXIII

FRAUDS BY TRUSTEES AND PERSONS IN A POSITION OF TRUST, AND FALSE ACCOUNTING

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

(2) For the purposes of this section, "trustee" includes the following persons and no others, that is to say:

The Laws of Zambia

- (a) trustees upon express trusts created by a deed, will, or instrument in writing, whether for a public or private or charitable purpose;
- (b) trustees appointed by or under the authority of an Act or Statute for any such purpose;
- (c) persons upon whom the duties of any such trust as aforesaid devolve;
- (d) executors and administrators.

324. Any person who-

- (a) being a director or officer of a corporation or company, receives or possesses himself as such of any of the property of the corporation or company otherwise than in payment of a just debt or demand, and, with intent to defraud, omits either to make a full and true entry thereof in the books and accounts of the corporation or company, or to cause or direct such an entry to be made therein; or
- (b) being a director, officer, or member of a corporation or company, does any of the following acts with intent to defraud, that is to say:
 - (i) destroys, alters, mutilates or falsifies any book, document, valuable security or account, which belongs to the corporation or company, or any entry in any such book, document, or account, or is privy to any such act; or
 - (ii) makes, or is privy to making, any false entry in any such book, document, or account; or
 - (iii) omits, or is privy to omitting, any material particular from any such book, document or account;

Directors and officers of corporations or companies fraudulently appropriating property or keeping fraudulent accounts or falsifying books or accounts

is guilty of a felony and is liable to imprisonment for seven years.

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

False statements by officials of companies

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

is guilty of a felony and is liable to imprisonment for seven years.

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

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

is guilty of a felony and is liable to imprisonment for seven years.

327. Any person who, being an officer charged with the receipt, custody or management of any part of the public revenue or property, knowingly furnishes any false statement or return of any money or property received by him or entrusted to his care, or of any balance of money or property in his possession or under his control, is guilty of a misdemeanour. False accounting by public officer

DIVISION VI

MALICIOUS INJURIES TO PROPERTY

CHAPTER XXXIV

OFFENCES CAUSING INJURY TO PROPERTY

328. Any person who wilfully and unlawfully sets fire to-

Arson
Cap. 464

- (a) any building or structure whatever, whether completed or not; or
- (b) any vessel or any motor vehicle as defined in the Roads and Road Traffic Act, whether completed or not; or
- (c) any stack of cultivated vegetable produce, or of mineral or vegetable fuel; or
- (d) a mine, or the workings, fittings, or appliances of a mine;

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

(As amended by No. 26 of 1961)

329. Any person who-

Attempts to commit arson

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

is guilty of a felony and is liable to imprisonment for fourteen years.

- 330.** Any person who wilfully and unlawfully sets fire to-
- (a) a crop of cultivated produce, whether standing, picked or cut; or
 - (b) a crop of hay or grass under cultivation, whether the natural or indigenous product of the soil or not, and whether standing or cut; or
 - (c) any standing trees, saplings, or shrubs, whether indigenous or not, under cultivation;

Setting fire to crops and growing plants

is guilty of a felony and is liable to imprisonment for fourteen years.

(As amended by No. 26 of 1940)

- 331.** Any person who-
- (a) attempts unlawfully to set fire to any such thing as is mentioned in the last preceding section; or
 - (b) wilfully and unlawfully sets fire to anything which is so situated that any such thing as is mentioned in the last preceding section is likely to catch fire from it;

Attempts to set fire to crops, etc.

is guilty of a felony and is liable to imprisonment for seven years.

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

Casting away vessels

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

(As amended by No. 26 of 1933)

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

Attempts to cast away vessels

(As amended by No. 26 of 1933)

- 334.** (1) Any person who wilfully and unlawfully kills, maims or wounds any animal capable of being stolen is guilty of an offence.

Injuring animals

(2) If the animal in question is a horse, mare, gelding, ass, mule, camel, bull, cow, ox, goat, pig, ram, ewe, wether, or ostrich, or the young of any such animal, the offender is guilty of a felony and is liable to imprisonment for seven years. In any other case the offender is guilty of a misdemeanour.

The Laws of Zambia

335. (1) Any person who wilfully and unlawfully destroys or damages any property is guilty of an offence, which, unless otherwise stated, is a misdemeanour and he is liable, if no other punishment is provided, to imprisonment for two years. Punishment for malicious injuries in general

(2) If the property in question is a dwelling-house or a vessel, and the injury is caused by the explosion of any explosive substance, and if- In special cases-
destroying or
damaging an inhabited
house or a vessels
with explosives

(a) any person is in the dwelling-house or vessel; or

(b) the destruction or damage actually endangers the life of any person;
the offender is guilty of a felony and is liable to imprisonment for life.

(3) If the property in question- River bank or wall, or
navigation works, or
bridges

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

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

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

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

(4) If the property in question is a testamentary instrument, whether the testator is living or dead, or a register which is authorised or required by law to be kept for authenticating or recording the title to any property or for recording births, baptisms, marriages, deaths, or burials, or a copy of any part of any such register which is required by law to be sent to any public officer, the offender is guilty of a felony and is liable to imprisonment for fourteen years. Wills and registers

(5) If the property in question is a vessel in distress or wrecked, or stranded, or anything which belongs to such vessel, the offender is guilty of a felony and is liable to imprisonment for seven years. Wrecks

The Laws of Zambia

(6) If the property in question is any part of a railway, or any work connected with a railway, the offender is guilty of a felony and is liable to imprisonment for fourteen years. Railways

(7) If the property in question-

Other things of special value

- (a) being a vessel, whether completed or not, is destroyed; or
- (b) being a vessel, whether completed or not, is damaged, and the damage is done with intent to destroy it or render it useless; or
- (c) is a light, beacon, buoy, mark, or signal, used for the purposes of navigation, or for the guidance of persons engaged in navigation; or
- (d) is a bank or wall of a river, canal, aqueduct, reservoir, or inland water, or a work which appertains to a dock, canal, aqueduct, reservoir, or inland water, or which is used for the purposes of lading or unloading goods; or
- (e) being a railway, or being a bridge, viaduct, or aqueduct which is constructed over a highway, railway, or canal, or over which a highway, railway, or canal passes, is damaged, and the damage is done with intent to render the railway, bridge, viaduct, or aqueduct, or the highway, railway, or canal passing over or under the same, or any part thereof, dangerous or impassable; or
- (f) being anything in process of manufacture, or an agricultural or manufacturing machine, or a manufacturing implement, or a machine or appliance used or intended to be used for performing any process connected with the preparation of any agricultural or pastoral produce, is destroyed; or
- (g) being any such thing, machine, implement, or appliance, as last aforesaid, is damaged, and the damage is done with intent to destroy the thing in question or to render it useless; or
- (h) is a shaft or a passage of a mine, and the injury is done with intent to damage the mine or to obstruct its working; or
- (i) is a machine, appliance, apparatus, building, erection, bridge, or road, appertaining to or used with a mine, whether the thing in question is completed or not; or
- (j) being a rope, chain, or tackle, of whatever material, which is used in a mine, or upon any way or work appertaining to or used with a mine, is destroyed; or

The Laws of Zambia

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

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

the offender is guilty of a felony and is liable to imprisonment for seven years.

(8) If the property in question is a document which is deposited or kept in a public office, or which is evidence of title to any land or estate in land, the offender is guilty of a felony and is liable to imprisonment for seven years.

Deeds and records

(As amended by No. 26 of 1933)

336. Any person who, unlawfully and with intent to destroy or damage any property, puts any explosive substance in any place whatever, is guilty of a felony and is liable to imprisonment for fourteen years.

Attempts to destroy property by explosives

337. Any person who wilfully and unlawfully causes, or is concerned in causing, or attempts to cause, any infectious disease to be communicated to or among any animal or animals capable of being stolen, is guilty of a felony and is liable to imprisonment for seven years.

Communi-cating infectious diseases to animals

338. Any person who wilfully and unlawfully, and with intent to defraud, removes or defaces any object or mark which has been lawfully erected or made as an indication of the boundary of any land, is guilty of a felony and is liable to imprisonment for three years.

Removing boundary marks with intent to defraud

339. Any person who-

(a) wilfully removes, defaces or injures any survey mark or boundary mark which shall have been made or erected by or under the direction of any Government department or in the course of or for the purposes of a Government survey; or

(b) being under an obligation to maintain in repair any boundary mark made or erected as aforesaid, neglects or refuses to repair the same; or

(c) wilfully removes, defaces or injures any mark erected by an intending applicant for any lease, licence or right under an Act relating to mines or minerals;

Wilful damage, etc., to survey and boundary marks

is guilty of a misdemeanour and is liable to imprisonment for three months or to a fine of six hundred penalty units, and may further be ordered by the court to pay the cost of repairing or replacing the survey mark or boundary mark and of making any survey rendered necessary by the offender's act or neglect.

(As amended by No. 13 of 1994)

340. Any person who-

- (a) wilfully damages, injuries, or obstructs any work, way, road, building, turnstile, gate, toll bar, fence, weighing machine, engine, tender, carriage, wagon, truck, material or plant, acquired for or belonging to any railway works; or
- (b) pulls up, removes, defaces, or destroys, or in any way interferes with, any poles, stakes, flags, pegs, lines, marks, or anything driven or placed in or upon the ground, trees, stones, or buildings, or any other material, belonging to any railway works; or
- (c) commits any nuisance or trespass in or upon any land, buildings, or premises, acquired for or belonging to any railway works; or
- (d) wilfully molests, hinders, or obstructs the officer in charge of any railway or his assistants or workmen in the execution of any work done or to be done in reference to the construction or maintenance of any such railway;

Penalties for damage, etc., to railway works

is guilty of a misdemeanour and is liable to imprisonment for three months or to a fine of six hundred penalty units.

(As amended by No. 13 of 1994)

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

Threats to burn or destroy

DIVISION VII

FORGERY, COINING, COUNTERFEITING AND SIMILAR OFFENCES

CHAPTER XXXV

DEFINITIONS

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

Definition of forgery

(As amended by No. 26 of 1940)

343. In this Division, "document" does not include a trade mark or any other sign used in connection with articles of commerce though they may be written or printed.

Definition of document

344. Any person makes a false document who-

Making a false document

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

344A. An intent to deceive exists where one person induces another person-

Intent to deceive

- (a) to believe that a thing is true which is false, and which the person practising the deceit knows or believes to be false; or
- (b) to believe a thing to be false which is true, and which the person practising the deceit knows or believes to be true;

and in consequence of having been so induced does or omits to do an act whether or not any injury or loss is thereby suffered by any person.

(No. 5 of 1972)

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

Intent to defraud

CHAPTER XXXVI

PUNISHMENTS FOR FORGERY

346. In this Chapter, "currency notes" includes any notes (by whatever name called) which are legal tender in the country in which they are issued. Definition of currency notes

(No. 48 of 1938)

347. Any person who forges any document is guilty of an offence which, unless otherwise stated, is a felony and he is liable, unless owing to the circumstances of the forgery or the nature of the thing forged some other punishment is provided, to imprisonment for three years. General punishment for forgery

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

(As amended by S.I. No.63 of 1964)

349. Any person who forges any judicial or official document is liable to imprisonment for seven years. Forgery of judicial or official document

350. Any person who-

- (a) forges any stamp, whether impressed or adhesive, used for the purpose of revenue or accounting by any Government department; or
- (b) without lawful excuse, the proof whereof shall lie upon him, makes or has knowingly in his possession any die or instrument capable of making the impression of any such stamp; or
- (c) fraudulently cuts, tears in any way, or removes from any material any stamp used for purposes of revenue or accounting by the Government, with intent that another use shall be made of such stamp or any part thereof; or
- (d) fraudulently mutilates any such stamp as last aforesaid, with intent that another use shall be made of such stamp; or
- (e) fraudulently fixes or places upon any material or upon any such stamp as last aforesaid any stamp or part of a stamp which, whether fraudulently or not, has been cut, torn, or in any way removed from any other material or out of or from any other stamp; or
- (f) fraudulently erases or otherwise either really or apparently removes from any stamped material any name, sum, date, or other matter or thing whatsoever written thereon with the intent that another use shall be made of the stamp upon such material; or
- (g) knowingly and without lawful excuse, the proof whereof shall lie upon him, has in his possession any stamp or part of a stamp which has been fraudulently cut, torn, or otherwise removed from any material, or any stamp which has been fraudulently mutilated, or any stamped material out of which any name, sum, date, or other matter or thing has been fraudulently erased or otherwise really or apparently removed;

is liable to imprisonment for seven years.

Forgeries punishable by imprisonment for seven years

- 351.** Any person who, without lawful authority or excuse, the proof whereof lies upon him-
- Making or having in possession paper or implements for forgery
- (a) makes, uses, or knowingly has in his custody or possession any paper intended to resemble and pass as special paper such as is provided and used for making any currency note or bank note;
 - (b) makes, uses, or knowingly has in his custody or possession, any frame, mould or instrument for making such paper, or for producing in or on such paper any words, figures, letters, marks, lines or devices peculiar to and used in or on any such paper;
 - (c) engraves or in any wise makes upon any plate, wood, stone, or other material, any words, figures, letters, marks, lines or devices, the print whereof resembles in whole or in part any words, figures, letters, marks, lines or devices peculiar to and used in or on any bank note, or in or on any document entitling or evidencing the title of any person to any share or interest in any public stock, annuity, fund, or debt of the Republic or of any foreign state, or in any stock, annuity, fund or debt of any body corporate, company or society, whether within or without the Republic;
 - (d) uses or knowingly has in his custody or possession any plate, wood, stone, or other material, upon which any such words, figures, letters, marks, lines, or devices have been engraved or in any wise made as aforesaid; or
 - (e) uses or knowingly has in his custody or possession, any paper upon which any such words, figures, letters, marks, lines or devices have been printed or in any wise made as aforesaid;

is guilty of a felony and is liable to imprisonment for seven years.

(No. 48 of 1938 as amended by S.I. No. 63 of 1964)

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

- 353.** Any person who knowingly utters as and for a subsisting and effectual document, any document which has by any lawful authority been ordered to be revoked, cancelled, or suspended, or the operation of which has ceased by effluxion of time, or by death, or by the happening of any other event, is guilty of an offence of the same kind, and is liable to the same punishment, as if he had forged the document.
- Uttering cancelled or exhausted documents

- 354.** Any person who, by means of any false and fraudulent representations as to the nature, contents or operation of a document, procures another to sign or execute the document, is guilty of an offence of the same kind, and is liable to the same punishment, as if he had forged the document.
- Procuring execution of documents by false pretences

- 355.** Any person who, with intent to defraud-
- Obliterating crossings on cheques
- (a) obliterates, adds to, or alters the crossing on a cheque; or
 - (b) knowingly utters a crossed cheque, the crossing on which has been obliterated, added to, or altered;

is guilty of a felony and is liable to imprisonment for seven years.

- 356.** Any person who, with intent to defraud or to deceive-
- (a) without lawful authority or excuse, makes, signs, or executes, for or in the name or on account of another person, whether by procuration or otherwise, any document or writing; or
- (b) knowingly utters any document or writing so made, signed, or executed by another person;
- is guilty of a felony and is liable to imprisonment for seven years.
- (As amended by No. 26 of 1940)
- 357.** Any person who procures the delivery or payment to himself or any other person of any property or money by virtue of any probate or letters of administration granted upon a forged testamentary instrument, knowing the testamentary instrument to have been forged, or upon or by virtue of any probate or letters of administration obtained by false evidence, knowing the grant to have been so obtained, is guilty of an offence of the same kind, and is liable to the same punishment, as if he had forged the document or thing by virtue whereof he procures the delivery or payment.
- 358.** Any person who, without lawful authority or excuse, the proof of which lies on him, purchases or receives from any person, or has in his possession a forged bank note or currency note, whether filled up or in blank, knowing it to be forged, is guilty of a felony and is liable to imprisonment for seven years.
- 359.** Any person who, being employed in the public service, knowingly and with intent to defraud makes out or delivers to any person a warrant for the payment of any money payable by public authority, for a greater or less amount than that to which the person on whose behalf the warrant is made out is entitled, is guilty of a felony and is liable to imprisonment for seven years.
- 360.** Any person who, having the actual custody of any register or record kept by lawful authority, knowingly permits any entry which in any material particular is to his knowledge false, to be made in the register or record, is guilty of a felony and is liable to imprisonment for seven years.
- 361.** Any person who signs or transmits to a person authorised by law to register marriages, a certificate of marriage, or any document purporting to be a certificate of marriage, which in any material particular is to his knowledge false, is guilty of a felony and is liable to imprisonment for seven years.
- 362.** Any person who, knowingly and with intent to procure the same to be inserted in a register of births, deaths, or marriages, make any false statement touching any matter required by law to be registered in any such register, is guilty of a felony and is liable to imprisonment for three years.
- Making documents without authority
- Demanding property upon forged testamentary instrument
- Purchasing forged notes
- Falsifying warrants for money payable under public authority
- Falsification of register
- Sending false certificate of marriage to registrar
- False statements for registers of births, deaths and marriages

CHAPTER XXXVII

OFFENCES RELATING TO COIN

363. In this Chapter-

Definitions of
counterfeit coin and
current coin

"counterfeit coin" means coin not genuine but resembling or apparently intended to resemble or pass for genuine current coin; and includes genuine current coin prepared or altered so as to pass for current coin of a higher denomination;

"current", applied to any coin, includes any coin coined in Zambia or lawfully current in Zambia or any coin lawfully current in any foreign country.

(No. 48 of 1938 as amended by S.I. No. 63 of 1964)

364. Any person who makes or begins to make any counterfeit coin is guilty of a felony and is liable to imprisonment for life.

Counterfeiting coin

(As amended by No. 48 of 1938)

365. Any person who-

Preparations for
coining

- (a) gilds or silvers any piece of metal of a fit size or figure to be coined, with intent that it shall be coined into counterfeit coin; or
- (b) makes any piece of metal into a fit size or figure to facilitate the coining from it of any counterfeit coin, with intent that such counterfeit coin shall be made from it; or
- (c) without lawful authority or excuse, the proof of which lies on him-
 - (i) buys, sells, receives, pays, or disposes of any counterfeit coin at a lower rate than it imports or is apparently intended to import, or offers to do any such thing; or
 - (ii) brings or receives into Zambia any counterfeit coin, knowing it to be counterfeit; or
 - (iii) makes or mends, or begins or prepares to make or mend, or has in his possession, or disposes of any stamp or mould which is adapted to make the resemblance of both or either of the sides of any coin, or any part of either side thereof, knowing the same to be a stamp or mould or to be so adapted; or
 - (iv) makes or mends, or begins or prepares to make or mend, or has in his possession, or disposes of any tool, instrument or machine which is adapted and intended to be used for marking coin round the edges with marks or figures apparently resembling those on the edges of any coin, knowing the same to be so adapted and intended; or

The Laws of Zambia

- (v) makes or mends, or begins or prepares to make or mend, or has in his possession, or disposes of any press for coinage, or any tool, instrument, or machine which is adapted for cutting round blanks out of gold, silver, or other metal, knowing such press, tool, instrument, or machine to have been used or to be intended to be used for making any counterfeit coin;

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

(As amended by No. 48 of 1938)

366. Any person who deals with any current coin in such a manner as to diminish its weight, with intent that when so dealt with it may pass as current coin is guilty of a felony and is liable to imprisonment for seven years.

Clipping

(As amended by No. 48 of 1938)

367. Any person who melts down, breaks up, defaces by stamping thereon any name, word or mark, or uses otherwise than as currency, any silver coin current for the time being in Zambia, is guilty of a misdemeanour and is liable to imprisonment for six months or to a fine not exceeding three thousand penalty units, or to both.

Melting down of
currency

(As amended by Act No. 26 of 1940 and No. 13 of 1994)

368. Any person who unlawfully has in his possession, or disposes of any filings, or clippings of gold or silver, or any gold or silver in bullion, dust, solution, or any other state, obtained by dealing with current gold or silver coin in such a manner as to diminish its weight, knowing the same to have been so obtained, is guilty of a felony and is liable to imprisonment for seven years.

Possession of
clippings

369. Any person who utters any counterfeit coin, knowing it to be counterfeit, is guilty of a misdemeanour.

Uttering counterfeit
coin

(As amended by No. 48 of 1938)

370. Any person who-

Repeated uttering

- (a) utters any counterfeit coin, knowing it to be counterfeit, and at the time of such uttering has in his possession any other counterfeit coin; or
- (b) utters any counterfeit coin, knowing it to be counterfeit, and either on the same day or on any of the ten days next ensuing, utters any other counterfeit coin, knowing it to be counterfeit; or
- (c) has in his possession three or more pieces of counterfeit coin, knowing them to be counterfeit, and with intent to utter any of them;

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

(As amended by No. 48 of 1938)

The Laws of Zambia

371. Any person who, with intent to defraud, utters as and for current coin-

Uttering foreign coin or
metal as current coin

- (a) any coin which is not such current coin; or
- (b) any medal or piece of metal, whether a coin or not, which is of less value than the current coin as and for which it is uttered;

is guilty of a misdemeanour and is liable to imprisonment for one year.

(As amended by No. 48 of 1938)

372. Any person who, without lawful authority or excuse, the proof of which lies on him, exports or puts on board of a vessel or vehicle of any kind for the purpose of being exported from Zambia, any counterfeit coin whatever, knowing it to be counterfeit, is guilty of a felony and is liable to imprisonment for fourteen years.

Exporting counterfeit
coin

(As amended by No. 48 of 1938)

373. When any person is convicted of an offence under this Chapter, or Chapter XXXVI, the court shall order the forfeiture of any forged bank note or currency note or of any counterfeit coin, or any stamp, mould, tool, instrument, machine, press, or any coin, bullion or metal used or employed in the commission of any such offence.

Forfeiture

(As amended by No. 48 of 1938 and S.I. No. 63 of 1964)

CHAPTER XXXVIII

COUNTERFEIT STAMPS

- 374.** Any person who, without lawful authority or excuse, the proof of which lies on him-
- Possession of die used for purpose of making stamps
- (a) makes or mends, or begins or prepares to make or mend, or uses, or knowingly has in his possession, or disposes of any die, plate, or instrument capable of making an impression resembling that made by any die, plate or instrument used for the purpose of making any stamp, whether impressed or adhesive, which is used for the purposes of the public revenue or of the postal administration in Zambia, or in any foreign country, or capable of producing in or on paper any words, figures, letters, marks or lines resembling any words, figures, letters, marks, or lines used in or on any paper specially provided by the proper authority for any such purpose; or
 - (b) knowingly has in his possession or disposes of any paper or other material which has on it the impression of any such die, plate, or instrument, or any paper which has on it or in it any such words, figures, letters, marks or lines as aforesaid; or
 - (c) fraudulently, and with intent that use may be made of any such stamp as aforesaid, or of any part of it, removes the stamp from any material in any way whatever; or
 - (d) fraudulently, and with intent that use may be made of any part of such stamp, mutilates the stamp; or
 - (e) fraudulently fixes or places upon any material or upon any such stamp, any stamp or part of a stamp which has been in any way removed from any other material, or out of or from any other stamp; or
 - (f) fraudulently, and with intent that use may be made of any such stamp which has been already impressed upon or attached to any material, erases or otherwise removes, either really or apparently, from such material anything whatever written on it; or
 - (g) knowingly has in his possession or disposes of anything obtained or prepared by any such unlawful act as aforesaid; or
 - (h) fraudulently or with intent to cause loss to the public revenue, uses for any purpose a stamp issued by Government for the purposes of revenue which he knows to have been previously used;

is guilty of a felony and is liable to imprisonment for seven years, and any die, plate, instrument, paper or other thing as aforesaid which is found in his possession shall be forfeited.

*(As amended by No. 26 of 1940, G.N. No. 303 of 1964
and S.I. No. 63 of 1964)*

- 375.** (1) Any person who, without lawful authority or excuse, the proof of which lies on him-
- Paper and dies for postage stamps
- (a) makes, or begins or prepares to make, or uses for any postal purpose, or has in his possession, or disposes of any imitation or representation on paper or any other material, of any stamp used for denoting any rate of postage of the Republic, or of any foreign country; or

- (b) makes or mends, or begins or prepares to make or mend, or uses, or has in his possession or disposes of any die, plate, instrument, or material for making any such imitation or representation;

is guilty of a misdemeanour, and is liable to imprisonment for one year, or to a fine of one thousand and five hundred penalty units, and any stamps and any other such things as aforesaid, which are found in his possession, shall be forfeited.

(2) For the purposes of this section, a stamp purporting to denote a rate of postage of any country is to be taken to be a stamp used for postal purposes in that country until the contrary is shown.

(As amended by S.I. No. 63 of 1964 and Act No. 13 of 1994)

CHAPTER XXXIX

COUNTERFEITING TRADE MARKS

376. A trade mark is-

Definition of trade mark

- (a) a mark lawfully used by any person to denote any chattel to be an article or thing of the manufacture, workmanship, production, or merchandise of such person or to be an article or thing of any peculiar or particular description made or sold by such person;
- (b) any mark or sign which in pursuance of any written law in force for the time being relating to registered designs is to be put or placed upon or attached to any chattel or article during the existence or continuance of any copyright or other sole right acquired under the provision of such law.

377. (1) Any person who does any of the following things with intent to defraud or to enable another to defraud any person, that is to say:

Counterfeiting trade marks a misdemeanour

- (a) forges or counterfeits any trade mark;
- (b) applies any trade mark or any forged or counterfeited trade mark to any chattel or article not being the merchandise of any person whose trade mark is so forged or counterfeited;
- (c) applies any trade mark or any forged or counterfeited trade mark to any chattel or article not being the particular or peculiar description of merchandise denoted or intended to be denoted by such trade mark or by such forged or counterfeited trade mark;
- (d) applies any trade mark or any forged or counterfeited trade mark to any thing intended for any purpose of trade or manufacture, or in, on, or with which any chattel or article is intended to be sold, or is sold or offered or exposed for sale;

The Laws of Zambia

- (e) encloses or places any chattel or article in, upon, under, or with anything to which any trade mark has been falsely applied, or to which any forged or counterfeit trade mark has been applied;
- (f) applies or attaches any chattel or article to any case, cover, reel, ticket, label, or other thing to which any trade mark has been falsely applied, or to which any false or counterfeit trade mark has been applied;
- (g) encloses, places, or attaches any chattel or article in, upon, under, with, or to any thing having thereon any trade mark of any other person;

is guilty of a misdemeanour.

(2) Every person committing any such misdemeanour as mentioned in subsection (1) shall forfeit-

- (a) all chattels and articles to which any such trade mark or counterfeit trade mark is applied or caused or procured to be applied;
- (b) every instrument for applying any such trade mark or counterfeit trade mark in his possession or power;
- (c) the chattels and articles and the things mentioned in paragraphs (a), (e) and (g) of subsection (1), and all similar things made to be used in like manner in his possession or power.

(As amended by S.I. No. 63 of 1964)

CHAPTER XL

PERSONATION

378. (1) Any person who, with intent to defraud any person, falsely represents himself to be some other person, living or dead, is guilty of a misdemeanour.

Personation in general

(2) If the representation is that the offender is a person entitled by will or operation of law to any specific property and he commits the offence to obtain such property or possession thereof, he is liable to imprisonment for seven years.

379. Any person who, without lawful authority or excuse, the proof of which lies on him, makes in the name of any other person, before any court or person lawfully authorised to take such an acknowledgment, an acknowledgment of liability of any kind, or an acknowledgment of a deed or other instrument, is guilty of a misdemeanour.

Falsely acknowledging deeds, recognizances, etc.

380. Any person who utters any document which has been issued by lawful authority to another person, and whereby that other person is certified to be a person possessed of any qualification recognised by law for any purpose, or to be the holder of any office, or to be entitled to exercise any profession, trade or business, or to be entitled to any right or privilege, or to enjoy any rank or status, and falsely represents himself to be the person named in the document, is guilty of an offence of the same kind and is liable to the same punishment as if he had forged the document.

Personation of person named in certificate

381. Any person who, being a person to whom any document has been issued by lawful authority whereby he is certified to be a person possessed of any qualification recognised by law for any purpose, or to be the holder of any office, or to be entitled to exercise any profession, trade or business, or to be entitled to any right or privilege, or to enjoy any rank or status, sells, gives, or lends the document to another person with intent that that other may represent himself to be the person named therein, is guilty of a misdemeanour.

Lending, etc., certificate for personation

382. Any person who, for the purpose of obtaining any employment, utters any document of the nature of a testimonial of character given to another person, is guilty of a misdemeanour and is liable to imprisonment for one year.

Personation of person named in testimonial of character

383. Any person who, being a person to whom any such document as is mentioned in the last preceding section has been given, gives, sells, or lends such document to another person with the intent that that other person may utter such document for the purpose of obtaining any employment, is guilty of a misdemeanour.

Lending, etc., testimonial for personation

DIVISION VIII

CHAPTER XLI

384. Repealed by Act 14 of 1980.

385. Repealed by Act 14 of 1980.

386. Repealed by Act 14 of 1980.

387. Repealed by Act 14 of 1980.

388. Repealed by Act 14 of 1980.

DIVISION IX

ATTEMPTS AND CONSPIRACIES TO COMMIT CRIMES, AND ACCESSORIES AFTER THE FACT

CHAPTER XLII

ATTEMPTS

389. (1) When a person, intending to commit an offence, begins to put his intention into execution by means adapted to its fulfilment, and manifests his intention by some overt act, but does not fulfil his intention to such an extent as to commit the offence, he is deemed to attempt to commit the offence. Definition of attempt

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

(3) It is immaterial that by reason of circumstances not known to the offender it is impossible in fact to commit the offence.

390. Any person who attempts to commit a felony or misdemeanour is guilty of an offence which, unless otherwise stated, is a misdemeanour. Attempts to commit offences

391. Any person who attempts to commit a felony of such a kind that a person convicted of it is liable to the punishment of death or imprisonment for a term of fourteen years or upwards, with or without other punishment, is guilty of a felony and is liable, if no other punishment is provided, to imprisonment for seven years. Punishment of attempts to commit certain felonies

392. (1) Any person who attempts to procure another to do an act or make an omission of such a nature that if he himself were to do the act or make the omission he would be guilty of an offence, is himself to be deemed guilty of attempting to commit such offence and to be punishable accordingly. Attempts to procure commission of criminal acts

(2) Any person who, while in Zambia, attempts to procure another to do an act or make an omission at a place not in Zambia of such a nature-

(a) that if he were himself to do the act or make the omission in Zambia he would be guilty of an offence; and

(b) that if he were himself to do the act or make the omission at the place where the act or omission is proposed to be done or made he would himself be guilty of an offence under the laws in force at that place;

is guilty of an offence of the same kind and is liable to the same punishment as if he were himself to attempt to do the same act or make the same omission in Zambia.

(No. 28 of 1931)

393. Every person who, knowing that a person designs to commit or is committing a felony, fails to use all reasonable means to prevent the commission or completion thereof, is guilty of a misdemeanour. Neglect to prevent commission of a felony

CHAPTER XLIII

CONSPIRACIES

394. Any person who conspires with another to commit any felony, or to do any act in any part of the world which if done in Zambia would be a felony, and which is an offence under the laws in force in the place where it is proposed to be done, is guilty of a felony and is liable, if no other punishment is provided, to imprisonment for seven years, or, if the greatest punishment to which a person convicted of the felony in question is liable is less than imprisonment for seven years, then to such lesser punishment. Conspiracy to commit felony

395. Any person who conspires with another to commit a misdemeanour, or to do any act in any part of the world which if done in Zambia would be a misdemeanour, and which is an offence under the laws in force in the place where it is proposed to be done, is guilty of a misdemeanour. Conspiracy to commit misdemeanour

396. Any person who conspires with another to effect any of the purposes following, that is to say: Other conspiracies

- (a) to prevent or defeat the execution or enforcement of any Act, Statute, or Order; or
- (b) to cause any injury to the person or reputation of any person, or to depreciate the value of any property of any person; or
- (c) to prevent or obstruct the free and lawful disposition of any property by the owner thereof for its fair value; or
- (d) to injure any person in his trade or profession; or
- (e) to prevent or obstruct, by means of any act or acts which if done by an individual person would constitute an offence on his part, the free and lawful exercise by any person of his trade, profession, or occupation; or
- (f) to effect any unlawful purpose; or
- (g) to effect any lawful purpose by any unlawful means;

is guilty of a misdemeanour:

Provided that an agreement or combination by two or more persons to do or procure to be done any act in contemplation or furtherance of a trade dispute, as defined in the Industrial and Labour Relations Act, shall not be punishable under the provisions of this section if such act committed by one person would not be punishable as a crime. Cap. 269

(As amended by No. 1 of 1952 and No. 7 of 1958)

CHAPTER XLIV

ACCESSORIES AFTER THE FACT

The Laws of Zambia

397. (1) Any person who receives or assists another who is, to his knowledge, guilty of an offence, in order to enable him to escape punishment, is said to become an accessory after the fact to the offence.

Definition of accessories after the fact

(2) A wife does not become an accessory after the fact to an offence of which her husband is guilty by receiving or assisting him in order to enable him to escape punishment; or by receiving or assisting, in her husband's presence and by his authority, another person who is guilty of an offence in the commission of which her husband has taken part, in order to enable that other person to escape punishment; nor does a husband become accessory after the fact to an offence of which his wife is guilty by receiving or assisting her in order to enable her to escape punishment.

398. Any person who becomes an accessory after the fact to a felony is guilty of a felony, and is liable, if no other punishment is provided, to imprisonment for three years.

Punishment of accessories after the fact to felonies

399. Any person who becomes an accessory after the fact to a misdemeanour is guilty of a misdemeanour.

Punishment of accessories after the fact to misdemeanours

The Laws of Zambia
SCHEDULE

(Section 27)

OFFENCES FOR WHICH COURT MAY ORDER CORPORAL PUNISHMENT

<i>Description of Offence</i>	<i>Number of Section</i>
Rape	132
Attempted rape	134
Indecent assaults on females	137
Defilement of girls under sixteen	138
Attempted defilement of girls under sixteen	138 (2)
Defilement of idiots or imbeciles	139
Procuration	140
Procuring defilement of women by threats or fraud or administering drugs	141
Indecent assault of boys under fourteen	157
Disabling with intent to commit felony or misdemeanour	222
Stupefying with intent to commit felony or misdemeanour	223
Acts intended to cause grievous harm or prevent arrest	224
Inflicting grievous harm	229
Maliciously administering poison with intent to harm	231
Unlawful wounding or poisoning	232
Assaults occasioning actual bodily harm	248
Assaults punishable with five years' imprisonment	250
Robbery	292
Assault with intent to steal	293
Aggravated robbery	294
Aggravated assault with intent to steal	295
Demanding property with menaces with intent to steal	299
Being found armed, etc., with intent to commit felony	305

(No. 23 of 1952 as amended by No. 6 of 1965)

The Laws of Zambia
SECOND SCHEDULE

(Section 33)

PARTICULARS OF NON CITIZEN CONVICTED OF OFFENCES

1. Full name of the accused.....
2. Postal address.....
3. Residential address.....
4. Sex.....
5. Date and place of birth.....
6. Father's full name.....
7. Date of first entry into Zambia.....
8. Duration of stay in Zambia.....
9. Occupation in Zambia.....
10. Offence for which accused was charged and convicted.....
11. Term of Imprisonment.....
12. Date on which accused commenced serving imprisonment.....
13. Previous Conviction (if any).....
14. Offence for which previously convicted.....
15. Sentence for the previous conviction.....
16. Race or declared national status.....
17. Name of the country of which he is a citizen.....
18. Passport Number (if any).....
19. Date and place of issue.....
20. Dated at this day of 19.....

SUBSIDIARY LEGISLATION

SECTION 227-SIGNPOSTING OF AUTHORISED PATHS ACROSS THE RAILWAY RESERVE

*Government Notice
261 of 1960*

Notice by the Minister

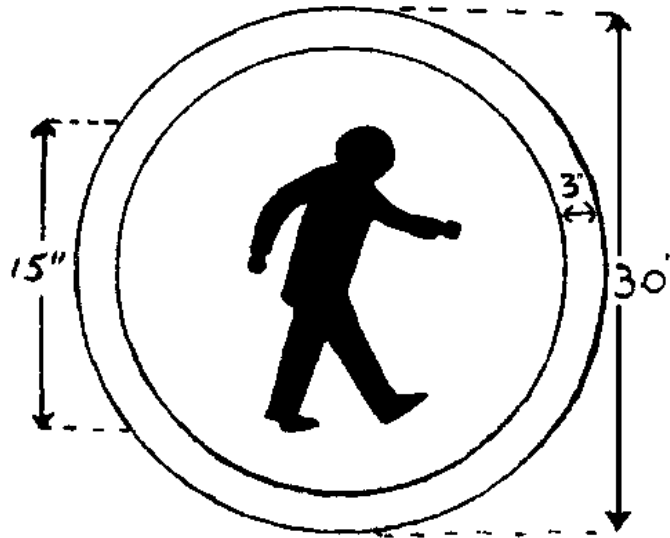
It is hereby prescribed that any path authorised by a Divisional Commander of Police under the powers conferred upon him by subsection (4) of section *two hundred and twenty-seven* of the Penal Code for the passage of persons across the railway reserve shall be signposted by the Zambia Railways in the following manner:

- (a) a signpost shall be erected where an authorised path enters the railway reserve on each side of the railway track or tracks and it shall bear a circular sign of approximately thirty inches in diameter facing outwards from such reserve;
- (b) the design of such circular sign and the figure thereon shall be as set forth in the Schedule;
- (c) the background colour of such circular sign shall be yellow and it shall have a band approximately three inches wide and coloured red around its circumference;
- (d) there shall be placed centrally within the red band a figure coloured black representing a man walking. The figure shall be approximately fifteen inches in height.

SCHEDULE

The Laws of Zambia

SIGN INDICATING AUTHORISED PEDESTRIAN CROSSING



Diameter of sign-approximately 30 inches.

Width of outer band-approximately 3 inches.

Height of figure representing a man walking-approximately 15 inches.

Background colour-yellow.

Colour of outer band-red.

Colour of figure representing a man walking-black.

INDEX TO PENAL CODE

INDEX TO PENAL CODE

	<i>Section</i>
ABDUCTION	
definition of	253
of girls under sixteen	136
with intent to know carnally	135
with intent to murder	255
ABORTION	
by woman with child	152, 221
drugs and instruments for	153
infanticide	203
ABUSE	
of authority	99
ACCESSORIES	
after the fact, defined	397
after the fact to felonies	398
after the fact to misdemeanours	399
after the fact to murder	217
ACCOUNTS	
false by public officer	327
fraudulent false.	326
fraudulent by certain officers	324
ACCUSED	
discharge, absolute and conditional	41
ACT	
dangerous doing of	213
done to prevent child born alive	221
endangering persons travelling in motor vehicles	228
endangering railways and persons travelling thereon	226
intended to cause grievous harm	224
intended to prevent arrests	224, 250
negligent	237
negligent causing harm	238
overt, definition of	52
preventing escape from wreck	225
reckless	237
ACTIONS	
penal, compounding of	114
ADMINISTERING	
poison	231
ADULTERATION	
of drugs	186
of drugs for sale	187
of food	184
ADVERTISEMENTS	
for stolen property	115
	<i>Section</i>
AERODROMES	
trespass on	245
AFFRAY	88

The Laws of Zambia

Endnotes

1 (Popup - Popup)

*On the expiry of Act No. 70 of 1953, the text of this section set out in Act No. 22 of 1953 will be substituted.