

# Criminal Law Reform Bill

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**Bill No. 6/2019.**

*Read the first time on 11 February 2019.*

A BILL

*intituled*

An Act to amend the Penal Code (Chapter 224 of the 2008 Revised Edition) and certain other Acts, to update the criminal offences, keep up with technological changes and emerging crime trends, enhance protection for minors and vulnerable victims, harmonise the criminal laws and update the sentencing framework.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

## Short title and commencement

1. This Act is the Criminal Law Reform Act 2019 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

## PART 1

### AMENDMENTS TO PENAL CODE

#### New sections 4A and 4B

2. The Penal Code is amended by inserting, immediately after section 4, the following sections:

10           **“Offences against State and genocide committed outside  
Singapore by citizen or permanent resident**

15           **4A.** Every person who, being a citizen or permanent resident of Singapore, commits an act or omission outside Singapore that if committed in Singapore would constitute an offence under Chapter VI (Offences against the State) or VIB (Genocide), is deemed to have committed that act or omission in Singapore.

**Punishment of specified offences with elements occurring  
in Singapore but others occurring outside Singapore**

20           **4B.—(1)** A specified offence is deemed to have been committed in Singapore where —

- 25           (a) a relevant act of the specified offence occurs in Singapore and any other relevant act of that specified offence occurs outside Singapore;
- (b) a relevant act of the specified offence occurs partly in Singapore and partly outside Singapore, whether or not other relevant acts of that specified offence occur in Singapore; or
- 30           (c) the specified offence involved an intention to make a gain or cause a loss or exposure to a risk of loss or to cause harm to any person in body, mind, reputation or property, and that gain, loss or harm occurs in Singapore.

(2) In this section —

“relevant act”, in relation to a specified offence, means an act or omission (whether occurring wholly or partly in or outside Singapore) which is a physical element of the specified offence;

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“specified offence” means an offence specified in the Schedule and includes an attempt to commit the offence, an abetment of the offence and a criminal conspiracy to commit the offence.

(3) The Minister may, by order in the *Gazette*, amend the Schedule.”.

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### **Amendment of section 6**

3. Section 6 of the Penal Code is amended —

(a) by deleting the words “Chapter entitled “General Exceptions” ” and substituting the words “Chapters entitled “General Exceptions” and “Right of Private Defence” ”; and

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(b) by deleting the words “7 years” wherever they appear in *illustration (a)* and substituting in each case the words “10 years”.

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### **New section 6A**

4. The Penal Code is amended by inserting, immediately after section 6, the following section:

#### **“Definitions to apply to this Code and other written law**

**6A.** Every definition of a word or expression which is explained in sections 22A to 26H (except the definitions of “dishonestly” and “fraudulently” in sections 24 and 25, respectively) applies to any offence in this Code or in any other written law unless that written law expressly provides for a definition or explanation of that same word or expression.”.

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## Amendment of section 21

5. Section 21(1) of the Penal Code is amended —

(a) by deleting paragraph (g) and substituting the following paragraph:

5 “(g) every officer of the Government and every  
officer or employee of a body corporate  
established by a public Act for the purposes  
of a public function whose duty, as such  
10 officer or employee, is any of the  
following:

(i) maintaining law and order;

(ii) preserving the public peace;

(iii) preventing and detecting offences;

(iv) apprehending offenders or otherwise  
15 bringing offenders to justice;

(v) executing summonses, subpoenas,  
warrants, commitments and other  
legal processes issued by a court or  
Justice of the Peace;

(vi) maintaining order in the premises of  
20 the courts of justice;

(vii) escorting and guarding prisoners and  
accused persons in remand;

(viii) protecting the public health or safety  
25 or prevention of public  
inconvenience;” and

(b) by deleting the full-stop at the end of paragraph (i) and  
substituting a semi-colon, and by inserting immediately  
thereafter the following paragraph:

30 “(j) every person (other than a person  
mentioned in paragraph (g)) who is  
employed to carry out any of the duties,  
mentioned in paragraph (g)(i) to (vii), on

behalf of the Government or a body corporate established by a public Act for the purposes of a public function, when that person is performing such duties.”.

## **Repeal and re-enactment of section 22 and new section 22A**

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6. Section 22 of the Penal Code is repealed and the following sections substituted therefor:

### **““Property”**

22. In this Code —

“immovable property” means land, benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth; 10

“movable property” includes property of every description, except immovable property;

“property” means money and all other property, movable or immovable, including things in action, other intangible or incorporeal property and virtual currency; 15

“virtual currency” means a digital representation of value in money or money’s worth that can be digitally traded and functions as a medium of exchange, a unit of account or store of value, regardless of whether it is legal tender in any country or territory including Singapore. 20

### *Illustration*

Writings, relating to real or personal property or rights, are movable property. 25

### **“Fault element” and “physical element”**

22A.—(1) A fault element of an offence refers to any state of mind, proof of which is needed to establish liability under that offence, including but not limited to intention, wilfulness, knowledge, rashness and negligence. 30

(2) A physical element of an offence refers to any fact, proof of which is needed to establish liability under that offence, and that is not a fault element of that offence.”.

### **Repeal and re-enactment of sections 23, 24 and 25**

5 7. Sections 23, 24 and 25 of the Penal Code are repealed and the following sections substituted therefor:

#### **““Wrongful gain” and “wrongful loss”**

10 **23.**—(1) A “wrongful gain” is gain by unlawful means of property to which the person gaining it is not legally entitled or avoidance by unlawful means of a loss of property to which the person avoiding it is not legally entitled to avoid.

(2) A “wrongful loss” is loss or exposure of risk to a loss by unlawful means of property to which the person losing it or exposed to the risk of losing it is legally entitled.

15 *Explanation 1.*—A person is said to gain wrongfully when the person retains wrongfully, as well as when the person acquires wrongfully. A person is said to lose wrongfully when the person is wrongfully kept out of any property, as well as when the person is wrongfully deprived of property.

20 *Explanation 2.*—The word “gain” includes a gain by keeping what one has, as well as a gain by getting what one does not have.

*Explanation 3.*—The word “loss” includes a loss by not getting what one might get, as well as a loss by parting with what one has.

#### **“Dishonestly”**

**24.** A person (*A*) is said to do an act dishonestly if —

25 (a) *A* does that act with the intention of causing wrongful gain to *A* or another person, or wrongful loss to another person, regardless of whether such gain or loss is temporary or permanent; or

30 (b) that act done by *A* is dishonest by the ordinary standards of reasonable and honest persons and *A* knows that that act is dishonest by such standards.

### **“Fraudulently”**

**25.** A person (*A*) is said to do an act fraudulently if *A* does that act with intent to deceive another person (*B*) and by means of such deception, that an advantage should accrue to *A* or another person or detriment should befall *B* or another person (other than *A*), regardless of whether such advantage or detriment is temporary or permanent. 5

*Explanation 1.*—Where the advantage or the detriment *A* intended by means of the act done is so slight that no reasonable person of ordinary sense or temper would complain of it, the act is not done fraudulently. 10

*Explanation 2.*—It is sufficient in any charge for an offence under this Code involving doing an act fraudulently to allege a general intent to act fraudulently without naming any particular person intended to be deceived.”.

### **New sections 26A to 26H**

**8.** The Penal Code is amended by inserting, immediately after section 26, the following sections: 15

#### **““Voluntarily”**

**26A.** A person is said to cause an effect “voluntarily” when he causes it by means whereby he intended to cause it, or by means which, at the time of employing those means, he knew or had reason to believe to be likely to cause it. 20

#### *Illustration*

*A* sets fire, by night, to an inhabited house in a large town, for the purpose of facilitating a robbery, and thus causes the death of a person. Here *A* may not have intended to cause death, and may even be sorry that death has been caused by this act; yet, if he knew that he was likely to cause death, he has caused death voluntarily. 25

#### **“Good faith”**

**26B.** Nothing is said to be done or believed in good faith which is done or believed without due care and attention. 30

#### **“Intentionally”**

**26C.**—(1) A person is said to do an act intentionally where that person does an act deliberately.

(2) A person is said to cause an effect intentionally where that person does anything that causes an effect —

(a) with the purpose of causing that effect; or

(b) knowing that that effect would be virtually certain (barring an unforeseen intervention) to result.

(3) To avoid doubt, a person does not intend or foresee a result of his acts by reason only of it being a natural and probable consequence of those acts.

(4) To avoid doubt, nothing in this section prevents a court from relying on a person's foresight that a certain effect was a probable consequence of his act as a basis to draw an inference that the person caused that effect intentionally.

*Explanation.*—Intention is distinct from motive or desire, and a person may do an act or cause an effect intentionally even if doing so was not his motive or he had no desire to do so.

### **“Knowingly”**

**26D.**—(1) Whoever does an act with awareness that a circumstance exists, will exist, or is virtually certain (barring an unforeseen intervention) to exist, is said to do that act knowingly in respect of that circumstance.

(2) Whoever does an act with awareness that an effect will be caused, or is virtually certain (barring an unforeseen intervention) to be caused, is said to do that act knowingly in respect of that effect.

(3) Where doing an act knowingly is a fault element of an offence, that fault element is also established where that act is done intentionally.

### **“Rashly”**

**26E.**—(1) Whoever does any act knowing that there is a real risk that a particular circumstance exists or will exist, and that it is unreasonable to take that real risk, is said to do that act rashly in respect of that particular circumstance.

(2) Whoever does any act knowing that there is a real risk that an effect will be caused and that it is unreasonable to take that real risk is said to do that thing rashly in respect of that effect.

(3) Where doing an act rashly is a fault element of an offence, that fault element is also established where that act is done intentionally or knowingly.

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### **“Negligently”**

**26F.**—(1) Whoever omits to do an act which a reasonable person would do, or does any act which a reasonable person would not do, is said to do so negligently.

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(2) Where doing an act negligently is a fault element of an offence, that fault element is also established where that act is done intentionally, knowingly or rashly.

### **“Transferred fault”**

**26G.**—(1) This section applies to any offence under this Code or any other written law where a fault element of the offence is intention or knowledge, except where section 301(1) applies to that offence.

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(2) Where all the fault elements and physical elements of the offence have been proven in respect of an accused person, and assuming no defence or exception applies, the accused person shall be guilty of the offence despite the following circumstances:

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(a) the physical elements of the offence included the doing of an act or the causing of an effect concerning a person or thing;

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(b) at the time such act or effect was done or caused, the accused person believed or intended that the act or effect would concern a person or thing different from the person or thing mentioned in paragraph (a).

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(3) Subsection (2) applies only where the accused person did or caused the physical elements in subsection (2)(a) negligently in respect of the person or thing mentioned in that subsection.

*Illustrations*

(a) *A* throws a stone at *B* intending to hurt *B* (but not intending, knowing or having reason to believe that anyone else would be hurt), but the stone hurts *C*. *A* commits an offence of voluntarily causing hurt in respect of *C* if *A* threw the stone negligently in respect of *C*.

(b) *A* throws a stone at a porcelain vase intending to cause loss to its owner, *B* (but not intending or knowing it likely that *A* would cause wrongful loss or damage in respect of any other property), but the stone damages a clay pot belonging to *C*. *A* commits mischief in respect of *C* if *A* threw the stone negligently in respect of *C*.

(c) *A* threatens injury to *B*'s person by shouting at *B* the words, "B, I will kill you", with intent to cause alarm to *B*. *C* hears these words and is alarmed. *A* does not commit the offence of criminal intimidation against *C* as *A* did not threaten *C* with any injury.

(4) To avoid doubt, nothing in this section affects the requirement to prove all the fault elements of an offence in order for guilt to be established for that offence.

*Illustrations*

(a) *A* throws a stone at *B* intending to hurt *B* (but not intending or not knowing that *A* is likely to cause wrongful loss or damage in respect of any property), but the stone hits a porcelain vase. *A* does not commit mischief in respect of the vase. This is because *A* did not possess the fault element required to commit mischief.

(b) *A* throws a stone at *B* intending to hurt *B* (but not intending, knowing or having reason to believe that anyone else would be hurt), but the stone hurts *P*, a police officer in discharge of his duty. *A* commits an offence of voluntarily causing hurt against *P*. *A* does not commit an offence of voluntarily causing hurt to *P* in the discharge of *P*'s duty as a public servant because *A* did not possess the fault element required to commit this offence.

(c) *A* throws a stone at *B* intending to hurt *B* (but not intending or not knowing that *A* is likely to cause grievous hurt), but the stone causes grievous hurt to *C*. *A* commits an offence against *C* of voluntarily causing hurt where grievous hurt is caused under section 323A. *A* does not commit an offence of voluntarily causing grievous hurt against *C* because *A* did not possess the fault element required to commit this offence.

(5) Where the circumstances mentioned in subsection (2)(a) and (b) exist, the accused person may rely on any defence or exception in law as though the act or effect mentioned in subsection (2)(a) concerned the person or thing the accused person believed or intended that act or effect to concern.

*Illustration*

*A* throws a stone at *B* in exercise of *A*'s right of private defence against *B*, but the stone hurts *C*. *A* may rely on the defence of private defence against *B* if *A* is charged for voluntarily causing hurt to *C*.

**“Strict liability”**

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**26H.**—(1) An offence of strict liability under this Code or any written law is one where, for every physical element of the offence, there is no corresponding fault element.

(2) Strict liability is said to apply to a particular physical element of an offence where there is no corresponding fault element for that physical element, regardless of whether or not the offence is one of strict liability.

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(3) To avoid doubt, an offence may be a strict liability offence even though it is not so expressly described by any written law; and strict liability may apply to a particular physical element of that offence even though it is not so expressly described in any written law.

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(4) It is a defence for any person charged with a strict liability offence to prove that in doing anything or omitting to do anything specified in the charge, he exercised reasonable care.”.

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**Amendment of section 30**

**9.** Section 30 of the Penal Code is amended —

(a) by inserting, immediately after the words “a document” wherever they appear in subsection (1), the words “or an electronic record”; and

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(b) by re-lettering the existing *illustration* as *illustration (a)*, and by inserting immediately thereafter the following *illustration*:

“(b) An electronic bill of lading in the form of an electronic record in a secure electronic trading system is a “valuable security”.”.

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### **Amendment of section 33**

10. The Penal Code is amended by renumbering section 33 as subsection (1) of that section, and by inserting immediately thereafter the following subsection and *illustration*:

- 5           “(2) To avoid doubt, where a person does a series of acts, one or more of which caused a certain effect, that person is regarded to have caused that effect by that series of acts even if it is not known which of the acts in that series caused that effect.

*Illustration*

- 10           *A gives Z small doses of poison in Z’s food at different times over the course of a few days, with intent to kill Z. Z dies from poisoning, although it is not known which of those doses (individually or collectively) caused Z’s death. A has caused Z’s death by poisoning.”.*

### **Repeal of section 39**

- 15           **11.** Section 39 of the Penal Code is repealed.

### **Amendment of section 40**

**12.** Section 40(2) of the Penal Code is amended —

- (a) by deleting the words “, 389 and 445” and substituting the words “and 389”; and
- 20           (b) by deleting the words “other law” and substituting the words “other written law”.

### **New section 44A**

**13.** The Penal Code is amended by inserting, immediately after section 44, the following section:

- 25           **““Bodily injury”**

**44A.** The words “bodily injury” denote as well a series of bodily injuries as a single bodily injury.”.

### **Repeal of section 52**

- 14.** Section 52 of the Penal Code is repealed.

## Repeal and re-enactment of section 73

15. Section 73 of the Penal Code is repealed and the following section substituted therefor:

### “Enhanced penalties for offences against domestic workers

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73.—(1) Where an employer of a domestic worker, a member of the employer’s household or an employment agent of a domestic worker is convicted of an offence under this Code (other than an excluded offence), the court may sentence the person convicted to twice the maximum punishment that the court could, but for this section, impose for that offence.

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(2) This section does not apply where the offender (*A*) proves that, despite *A* being an employer of the domestic worker (*B*), a member of *B*’s employer’s household or an employment agent of *B*, the relationship between *A* and *B* did not adversely affect *B*’s ability to protect herself from *A* in respect of the harm caused by the offence.

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(3) Despite anything to the contrary in the Criminal Procedure Code (Cap. 68) —

(a) a Magistrate’s Court has jurisdiction to try the offences in subsection (1), where no imprisonment is prescribed or where twice the maximum term of imprisonment prescribed for the offence does not exceed 5 years, and has power to impose the full punishment provided under that subsection in respect of those offences; and

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(b) a District Court has jurisdiction to try the offences in subsection (1) and has power to impose the full punishment provided under that subsection in respect of those offences.

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(4) In this section —

“domestic worker” means any female house servant employed in, or in connection with, the domestic services of her employer’s private dwelling-house and

who is required to reside in her employer’s private dwelling-house;

“dwelling-house” means a place of residence and includes a building or tenement wholly or principally used, constructed or adapted for use for human habitation;

“employer”, in relation to a domestic worker, includes a person who has the same fundamental qualities as an employer of the domestic worker and whose orders the domestic worker has reasonable grounds for believing she is expected to obey;

“employment agency personnel” has the meaning given by section 2 of the Employment Agencies Act (Cap. 92);

“employment agent”, in relation to a domestic worker, means an employment agency personnel or a person who performs work similar to an employment agency personnel, and whose orders the domestic worker has reasonable grounds for believing she is expected to obey;

“excluded offence” means an offence —

(a) under section 304B or 335A; or

(b) under this Code which is punishable with death or imprisonment for life;

“member of the employer’s household”, in relation to a domestic worker, means a person residing in the private dwelling-house of the domestic worker’s employer at the time the offence was committed, and whose orders the domestic worker has reasonable grounds for believing she is expected to obey.”.

#### **Amendment of section 74**

**16.** Section 74 of the Penal Code is amended —

(a) by deleting “343, 344,” in subsections (2)(a) and (3)(a);

- (b) by inserting, immediately after “363A,” in subsection (2)(a), “376ED, 376EE, 377BA, 377BB, 377BC, 377BD, 377BE, 377BF,”; and
- (c) by deleting the words “, 507 or 509” in subsection (2)(a) and substituting the words “or 507”.

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### **Amendment of section 74A**

**17.** Section 74A of the Penal Code is amended —

- (a) by deleting the words “vulnerable adult” in subsections (1) and (2) and substituting in each case the words “vulnerable person”;
- (b) by deleting the words “one and a half times” in subsection (2) and substituting the word “twice”;
- (c) by inserting, immediately after subsection (2), the following subsection:

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“(2A) This section does not apply where the offender proves that despite being a vulnerable person the victim was capable of protecting himself from the offender in respect of the harm caused by the offence in the same manner as an ordinary person who is not a vulnerable person.”;

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- (d) by deleting subsections (3), (4) and (5) and substituting the following subsections:

“(3) The offence to which this section applies is any offence under this Code which may be committed against a vulnerable person except an offence —

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(a) under section 304B, 304C, 335A or 376F;  
or

(b) punishable with death or imprisonment for life.

(4) Despite anything to the contrary in the Criminal Procedure Code —

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5 (a) a Magistrate’s Court has jurisdiction to try the offences specified in subsection (3), where no imprisonment is prescribed or where twice the maximum term of imprisonment prescribed for the offence does not exceed 5 years, and has power to impose the full punishment provided under subsection (2) in respect of those offences; and

10 (b) a District Court has jurisdiction to try the offences specified in subsection (3) and has power to impose the full punishment provided under subsection (2) in respect of those offences.

15 (5) In this section —

“abuse” has the meaning given by section 2(1) of the Vulnerable Adults Act 2018 (Act 27 of 2018);

20 “self-neglect” has the meaning given by section 2(1) of the Vulnerable Adults Act 2018;

25 “vulnerable person” means an individual who is, by reason of mental or physical infirmity, disability or incapacity, substantially unable to protect himself from abuse, neglect or self-neglect.”; and

(e) by deleting the words “vulnerable adults” in the section heading and substituting the words “vulnerable persons”.

### **New sections 74B to 74E**

30 **18.** The Penal Code is amended by inserting, immediately after section 74A, the following sections:

**“Enhanced penalties for offences against person below 14 years of age**

**74B.**—(1) Subsection (2) applies to any offence under this Code which may be committed against a person below 14 years of age except where —

- (a) it is expressly provided that an enhanced or mandatory minimum sentence will apply to the offence when it is committed against a person below 14 years of age;
- (b) the offence is under section 304B, 304C, 377BG, 377BH, 377BI, 377BJ or 377BK; or
- (c) the offence is punishable with death or imprisonment for life.

(2) Where any person commits an offence under this Code against a person below 14 years of age, the court may sentence the person convicted of the offence to punishment not exceeding twice the maximum punishment that the court could, but for this section, impose for the offence if at the time of committing the offence the offender knew or ought reasonably to have known that the victim was a person below 14 years of age.

(3) This section does not apply where the offender proves that the victim despite being a person below 14 years of age, was capable of protecting himself from the offender in respect of the harm caused by the offence in the same manner as a person of or above 14 years of age.

(4) Despite anything to the contrary in the Criminal Procedure Code —

- (a) a Magistrate’s Court has jurisdiction to try the offences to which subsection (2) applies, where no imprisonment is prescribed or where twice the maximum term of imprisonment prescribed for the offence does not exceed 5 years, and has power to impose the full punishment provided under subsection (2) in respect of those offences; and

- (b) a District Court has jurisdiction to try the offences to which subsection (2) applies and has power to impose the full punishment provided under subsection (2) in respect of those offences.

5       **Enhanced penalties for offences against victims in intimate relationships**

10       **74C.**—(1) Subsection (2) applies where an offender (*A*) is convicted of any offence under Chapter XVI (except an offence punishable with death or imprisonment for life) committed against a person (*B*) who was or is in an intimate relationship with *A*.

15       (2) When the offender (*A*) commits an offence against *B*, the court may sentence the person convicted of the offence to punishment not exceeding twice the maximum punishment that the court could, but for this section, impose for the offence if at the time of committing the offence *A* knew or ought reasonably to have known that *B* was or is in an intimate relationship with *A*.

20       (3) This section does not apply where the offender (*A*) proves that, despite *A* having been or being in an intimate relationship with *B*, the relationship between *A* and *B* did not adversely affect *B*'s ability to protect *B* from *A* in respect of the harm caused by the offence.

(4) Despite anything to the contrary in the Criminal Procedure Code —

25       (a) a Magistrate's Court has jurisdiction to try the offences to which subsection (2) applies, where no imprisonment is prescribed or where twice the maximum term of imprisonment prescribed for the offence does not exceed 5 years, and has power to impose the full punishment provided under subsection (2) in respect of those offences; and

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(b) a District Court has jurisdiction to try the offences to which subsection (2) applies and has power to impose the full punishment provided under subsection (2) in respect of those offences.

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(5) For the purpose of this section, the court may determine whether the offender (*A*) was or is in an intimate relationship with the victim (*B*) having regard to all the circumstances of the case, including the following:

- (a) whether *A* and *B* are living in the same household, although it is not necessary that they live in the same household; 5
- (b) whether *A* and *B* share the tasks and duties of their daily lives;
- (c) whether *A* and *B* have made arrangements to share expenses or financial support and the degree of financial dependence or interdependence between *A* and *B*; 10
- (d) whether there is a sexual relationship between *A* and *B*, although it is not necessary that there be a sexual relationship between them; 15
- (e) whether *A* and *B* share the care and support of a specific person below 21 years of age;
- (f) whether *A* and *B* conduct themselves toward their friends, relatives or other persons as parties to an intimate relationship, and whether *A* and *B* are so treated by their friends, relatives or other persons. 20

### **Enhanced penalties for offences against victims in close relationships**

**74D.**—(1) Subsection (2) applies where an offender (*A*) is convicted of any offence under Chapter XVI (except an offence punishable with death or imprisonment for life) committed against a person (*B*) who was or is in a close relationship with *A*. 25

(2) When the offender (*A*) commits an offence against *B*, the court may sentence the person convicted of the offence to punishment not exceeding twice the maximum punishment that the court could, but for this section, impose for the offence if at the time of committing the offence *A* knew or ought reasonably to have known that *B* was or is in a close relationship with *A*. 30

(3) This section does not apply where the offender (*A*) proves that, despite *A* having been or being in a close relationship with *B*, the relationship between *A* and *B* did not adversely affect *B*'s ability to protect *B* from *A* in respect of the harm caused by the offence.

(4) Despite anything to the contrary in the Criminal Procedure Code —

(a) a Magistrate's Court has jurisdiction to try the offences to which subsection (2) applies, where no imprisonment is prescribed or where twice the maximum term of imprisonment prescribed for the offence does not exceed 5 years, and has power to impose the full punishment provided under subsection (2) in respect of those offences; and

(b) a District Court has jurisdiction to try the offences to which subsection (2) applies and has power to impose the full punishment provided under subsection (2) in respect of those offences.

(5) In this section, the offender (*A*) was or is in a close relationship with the victim (*B*) where —

(a) *A* is a member of the same household as *B*; and

(b) *A* and *B* had frequent contact with each other.

(6) For the purposes of subsection (5), *A* and *B* are to be treated as members of the same household if —

(a) they live in the same household; or

(b) they do not live in the same household, but *A* or *B* visits the household to which the other belongs so often and for such periods of time that it is reasonable to regard *A* and *B* as being members of the same household.

### **Application of enhanced penalties**

**74E.**—(1) Where 2 or more of the sections from amongst sections 73 to 74D are applicable to enhance the punishment for

an offence from that which the offender would otherwise have been liable for —

- (a) the punishment for the same offence shall not be enhanced by the application of more than one of those sections; and 5
  - (b) the court may determine which section should apply to enhance the punishment.
- (2) Where any punishment prescribed for an offence is —
- (a) a specified minimum sentence or a mandatory minimum sentence of imprisonment or caning, section 73, 74, 74A, 74B, 74C or 74D does not apply to enhance such punishment; and 10
  - (b) a sentence of caning, section 73, 74, 74A, 74B, 74C or 74D does not apply to enhance the maximum number of strokes of the cane that may be imposed.”. 15

### **Repeal of section 75**

**19.** Section 75 of the Penal Code is repealed.

### **Repeal and re-enactment of section 76**

**20.** Section 76 of the Penal Code is repealed and the following section substituted therefor: 20

**“Act done by person bound, or justified by law**

**76.** Nothing is an offence which is done by a person who is bound by law to do it or justified by law in doing it.

*Illustrations*

(a) *A*, a soldier, fires on a mob by the order of his superior officer, in conformity with the commands of the law. *A* has committed no offence. 25

(b) *A* sees *Z* repeatedly stabbing *Y* with a knife on a public road. *Y* dies. *A*, in the exercise of the power which the law gives to all persons apprehending murderers in the act, forcefully seizes *Z*, in order to detain *Z* so that *Z* can be arrested by the police officers when they arrive. *A* has committed no offence.”. 30

## Repeal and re-enactment of section 79

21. The Penal Code is amended —

(a) by repealing section 79 (excluding the *illustrations*) and substituting the following section and *Explanation*:

5                   **“Act done by person by mistake of fact believing himself bound or justified by law**

79.—(1) Unless otherwise provided by written law, nothing is an offence which is done by any person who by reason of a mistake of fact or in ignorance of a fact in good faith believes himself to be bound by law to do it or justified by law in doing it.

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(2) Despite subsection (1), when a mistake of fact or ignorance of a fact negates the fault element required to establish liability under an offence, then to avoid doubt, that offence is not made out.

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*Explanation.*—Where the physical and fault elements of an offence are proven, and the accused person proves the defence under subsection (1), the accused person is not guilty of that offence.”; and

20                   (b) by inserting, immediately after *illustration (d)* of section 79, the following *illustrations*:

“(e) *A*, an officer of a court, being ordered by that court to arrest *Y*, and, after due enquiry, believing *Z* to be *Y*, arrests *Z*. *A* has committed no offence.

25                   (f) *A* sees a watch on *Z*’s desk, which is identical to one that *A* owns, and mistakenly believes the watch is actually his. *A* intentionally takes the watch out of *Z*’s possession without *Z*’s consent while labouring under such mistaken belief. *A* has not committed an offence of theft as he did not intend to dishonestly take the watch out of *Z*’s possession.”.

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## New section 79A

22. The Penal Code is amended by inserting, immediately after section 79, the following section:

**“Mistake of law or ignorance of law not defence**

**79A.**—(1) A person’s mistake of law or ignorance of the law is not a defence to a charge for an offence unless it is otherwise provided by written law.

(2) Despite subsection (1), when a mistake of law negates the fault element required to establish liability under an offence, then to avoid doubt, that offence is not made out. 5

*Illustration*

*A mistakenly believes he has in law the right to deprive Z of a watch. A intentionally takes the watch out of Z’s possession without Z’s consent while labouring under such mistaken belief. A has not committed an offence of theft as he did not intend to dishonestly take the watch out of Z’s possession.”.* 10

**Amendment of section 80**

**23.** Section 80 of the Penal Code is amended —

(a) by deleting the words “, and without any criminal intention or knowledge,”; 15

(b) by renumbering the section as subsection (1) of that section, and by inserting immediately before the *Illustration* the following subsection and *Explanation*:

“(2) Despite subsection (1), when the facts which are relied upon to establish the defence in subsection (1) will, when proven, negate the fault element required to establish liability under an offence, then to avoid doubt, that offence is not made out. 20 25

*Explanation.*—A lawful act in this section is any act which is not an offence under this Code or any written law and which is not otherwise prohibited by law.”; and

(c) by relettering the *Illustration* as *illustration (a)*, and by inserting immediately thereafter the following *illustration*: 30

“(b) *A operates a construction crane and activates a control that causes a heavy load to fall onto B, killing B. A did not act negligently, but his activation of the control caused this result because the construction crane was malfunctioning. A has not committed an offence of causing death by doing a negligent act* 35

under section 304A as he did not possess the requisite fault element of negligence.”.

### **Amendment of section 81**

**24.** Section 81 of the Penal Code is amended —

- 5           (a) by deleting the words “without any criminal intention to cause harm, and”; and
- (b) by deleting the words “without a criminal intent, and” in the section heading.

### **Amendment of section 82**

- 10       **25.** Section 82 of the Penal Code is amended by deleting the words “7 years” (including in the section heading) and substituting in each case the words “10 years”.

### **Amendment of section 83**

**26.** Section 83 of the Penal Code is amended —

- 15           (a) by deleting the words “above 7 years of age and under 12” and substituting the words “of or above 10 years and below 12”; and
- (b) by deleting the words “above 7 and under 12” in the section heading and substituting the words “of or above 10 and
- 20           below 12”.

### **Repeal and re-enactment of section 84**

**27.** Section 84 of the Penal Code is repealed and the following section substituted therefor:

#### **“Act of person of unsound mind**

- 25       **84.** Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is —
- (a) incapable of knowing the nature of the act;
- (b) incapable of knowing that what he is doing is wrong (whether wrong by the ordinary standards of

reasonable and honest persons or wrong as contrary to law); or

- (c) completely deprived of any power to control his actions.

*Illustration*

5

*A, while labouring under a delusion, believes that he has received divine instructions to kill Z and that it is morally right for him to do so. A however knows that it is contrary to law to kill Z. A kills Z. Here, the defence of unsoundness of mind is not available to A as he is capable of knowing that it is contrary to law to kill Z.*

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**Amendment of section 85**

**28.** Section 85 of the Penal Code is amended by deleting subsection (2) and substituting the following subsections:

“(2) Intoxication is a defence to any criminal charge if by reason of the intoxication the person charged, at the time of the act or omission complained of —

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- (a) did not know what he was doing; or  
 (b) did not know that such act or omission was wrong (whether wrong by the ordinary standards of reasonable or honest persons or wrong as contrary to law),

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and the state of intoxication was caused without the knowledge or against the will of the person charged with the offence.

(3) Intoxication is a defence to any criminal charge if by reason of the intoxication the person charged was of unsound mind as determined in accordance with section 84.”

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**Amendment of section 86**

**29.** Section 86 of the Penal Code is amended —

- (a) by deleting subsection (1) and substituting the following subsection:

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“(1) Where the defence under section 85 is established, then the accused person must be acquitted, except that if the person was of unsound

mind by reason of intoxication, section 84 of this Code and sections 251 and 252 of the Criminal Procedure Code will apply.”;

(b) by inserting, immediately after the words “any intention” in subsection (2), the words “or had any knowledge or belief”; and

(c) by deleting the subsection heading of subsection (3).

### **Deletion of sub-heading to Chapter IV and new Chapter IVA heading**

30. The Penal Code is amended by deleting the sub-heading “*Right of private defence*” immediately above section 96 and substituting the following Chapter heading and sub-heading:

“CHAPTER IVA

RIGHT OF PRIVATE DEFENCE

*General*”.

### **Amendment of section 97**

31. Section 97 of the Penal Code is amended by deleting the words “section 99” and substituting the words “sections 98 and 106A”.

### **Repeal of sections 98 to 106 and new sections 98 to 106A**

32. Sections 98 to 106 of the Penal Code are repealed and the following sections substituted therefor:

#### **“Extent to which right may be exercised**

98.—(1) The right of private defence does not extend to the inflicting of more harm than it is reasonably necessary in the circumstances.

(2) There is no right of private defence in cases in which there is reasonable opportunity to have recourse to the protection of a public authority in the circumstances.

*Illustrations*

(a) *Z* ambushes *A* in a secluded area and attempts to kill *A*. *A* kills *Z* while fending off *Z*'s attack. *A* is guilty of no offence because, in the circumstances, *A* had no reasonable opportunity to have recourse to the protection of a public authority. 5

(b) *Z* ambushes *A* in a secluded area and attempts to kill *A*. *A*'s right of private defence arises because, at that point of time, *A* had no reasonable opportunity to have recourse to the protection of a public authority. In the midst of the struggle between *A* and *Z*, a police patrol car arrives on the scene. *A*'s right of private defence ceases the moment *A* had reasonable opportunity to have recourse to the protection of the police. 10

### **Right of private defence against act of person of unsound mind, etc.**

99. When an act, which would otherwise be a certain offence, is not that offence, by reason of the youth, the want of maturity of understanding, the unsoundness of mind, or the intoxication of the person doing that act, or by reason of any misconception on the part of that person, every person has the same right of private defence against that act which he would have if the act were that offence. 15  
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*Illustrations*

(a) *Z*, under the influence of madness, attempts to kill *A*. *Z* is guilty of no offence. But *A* has the same right of private defence which he would have if *Z* were sane.

(b) *A* enters, by night, a house which he is legally entitled to enter. *Z*, in good faith, taking *A* for a housebreaker, attacks *A*. Here *Z*, by attacking *A* under this misconception, commits no offence. But *A* has the same right of private defence against *Z*, which he would have if *Z* were not acting under that misconception. 25

### **Right of private defence against deadly assault when there is risk of harm to innocent person**

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100. If, in the exercise of the right of private defence against an assault which causes the defender to reasonably believe that death would be caused to him or to any other person and the defender is so situated that he cannot effectually exercise that right without risk of harm to an innocent person, his right of private defence extends to the running of that risk. 35

*Illustration*

*A* is attacked by a mob who attempt to murder him. *A* cannot effectually exercise his right of private defence without firing on the mob, and he cannot fire without risk of harming young children who are mingled with the mob. *A* commits no offence if by so firing he harms any of the children.

*Right of private defence of body***Start and continuance of right of private defence of body**

**101.**—(1) The right of private defence of the body starts as soon as the defender reasonably believes that there is danger to the body (either his own or that of any other person) arising from any act which is an offence against the human body or an attempt or a threat to commit the offence, though the offence may not have been committed.

(2) The right of private defence continues as long as the belief of danger mentioned in subsection (1) continues.

**When right of private defence of body extends to causing death**

**102.** The right of private defence of the body extends, under the restrictions mentioned in sections 98 and 106A, to the voluntary causing of death to the assailant, if the offence which gives rise to the exercise of the right is of any of the following descriptions:

- (a) an assault where the defender reasonably believes that death will otherwise be the consequence of such assault;
- (b) an assault where the defender reasonably believes that grievous hurt will otherwise be the consequence of such assault;
- (c) an assault that the defender reasonably believes to be done with the intention of committing rape as described in section 375 or causing such rape to be committed;
- (d) an assault that the defender reasonably believes to be done with the intention of causing penile penetration

of the vagina, anus or mouth as described in section 376(1) or (2);

- (e) an assault that the defender reasonably believes to be done with the intention of kidnapping or abducting;
- (f) an assault that the defender reasonably believes to be done with the intention of wrongfully confining a person, under circumstances which may reasonably cause him to believe that he will be unable to have opportunity for recourse to a public authority for his release.

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### **When such right extends to causing any harm other than death**

**103.** If the offence is not of any of the descriptions mentioned in section 102, the right of private defence of the body does not extend to the voluntary causing of death to the assailant, but does extend, under the restrictions mentioned in sections 98 and 106A, to the voluntary causing to the assailant of any harm other than death.

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### *Right of private defence of property*

### **Commencement and continuance of right of private defence of property**

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**104.—(1)** The right of private defence of property starts when the defender reasonably believes that there was a danger to property (either his own or that of any other person) arising from any act which is an offence falling under the definition of theft, robbery, mischief or criminal trespass, or which is an attempt to commit such an offence.

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(2) The right of private defence of property against theft continues till —

- (a) the offender has effected his retreat with the property;
- (b) the assistance of a public authority is obtained; or
- (c) the property has been recovered.

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(3) The right of private defence of property against robbery continues as long as the offender causes or attempts to cause to any person death or hurt or wrongful restraint, or as long as the fear of instant death or of instant hurt or of instant personal restraint continues.

(4) The right of private defence of property against criminal trespass or mischief continues as long as the offender continues in the commission of criminal trespass or mischief.

(5) The right of private defence of property against house-breaking continues as long as such house-breaking continues.

### **When right of private defence of property extends to causing death**

**105.**—(1) The right of private defence of property extends, under the restrictions mentioned in sections 98 and 106A, to the voluntary causing of death to the wrongdoer when the defender reasonably believes that there was a danger to property (either his own or that of any other person) arising from any of the following descriptions:

(a) robbery;

(b) house-breaking committed after 7 p.m. and before 7 a.m. and if the wrongdoer —

(i) effects his entrance into the house or any part of it in any of the 6 ways described in subsection (2); or

(ii) being in the house or any part of it for the purpose of committing an offence, or having committed an offence therein, the wrongdoer leaves the house or any part of it in any of these 6 ways;

(c) mischief by fire committed on any building, tent, container or vessel, which building, tent, container or vessel is used as a human dwelling, or as a place for the custody of property;

(d) theft, mischief or house-breaking, under such circumstances where the defender reasonably believes that death or grievous hurt will be the consequence, if such right of private defence is not exercised.

5

(2) For the purposes of subsection (1)(b), the 6 ways of entry or leaving by a wrongdoer are as follows:

(a) if the wrongdoer enters or leaves through a passage made by the wrongdoer, or by any abettor of the house-breaking in order to commit the house-breaking;

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(b) if the wrongdoer enters or leaves through any passage not intended by any person, other than the wrongdoer or an abettor of the offence, for human entrance, or through any passage to which the wrongdoer has obtained access by scaling or climbing over any wall or building;

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(c) if the wrongdoer enters or leaves through any passage which the wrongdoer or any abettor of the house-breaking has opened, in order to commit the house-breaking, by any means by which that passage was not intended by the occupier of the house to be opened;

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(d) if the wrongdoer enters or leaves by opening any lock in order to commit the house-breaking, or in order to leave from the house after a house-breaking;

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(e) if the wrongdoer effects his entry or leaving by using criminal force or committing an assault, or by threatening any person with assault;

(f) if the wrongdoer enters or leaves by any passage which he knows to have been fastened against such entry or leaving, and to have been unfastened by himself or by an abettor of the house-breaking.

30

## **When such right extends to causing any harm other than death**

5       **106.** If the offence, the committing or the attempt to commit of which occasions the exercise of the right of private defence, is theft, mischief, or criminal trespass, not of any of the descriptions mentioned in section 105, that right does not extend to the voluntary causing of death, but does extend, subject to the restrictions mentioned in sections 98 and 106A, to the voluntary causing to the wrongdoer of any harm other than  
10       death.

### *No right of private defence*

#### **Acts against which there is no right of private defence**

15       **106A.**—(1) There is no right of private defence against an act which does not cause the defender to reasonably believe that death or grievous hurt would result, if done, or attempted to be done, by a public servant acting in good faith under the actual or apparent authority of his office, though that act may not be strictly justifiable by law.

20       (2) There is no right of private defence against an act which does not cause the defender to reasonably believe that death or grievous hurt would result, if done, or attempted to be done, by the direction of a public servant acting in good faith under the actual or apparent authority of the public servant's office, though that direction may not be strictly justifiable by law.

25       *Explanation 1.*—A person is not deprived of the right of private defence against an act done, or attempted to be done, by a public servant, as such, unless he knows, or has reason to believe, that the person doing the act is such public servant.

30       *Explanation 2.*—A person (*A*) is not deprived of the right of private defence against an act done, or attempted to be done, by the direction of a public servant, unless *A* knows, or has reason to believe, that the person doing the act (*B*) is acting by such direction; or unless *B* states the authority under which *B* acts, or, if *B* has authority in writing, unless *B* produces such authority, if demanded.”.

**Amendment of section 107**

**33.** Section 107 of the Penal Code is amended —

(a) by renumbering the section as subsection (1) of that section, and by inserting immediately thereafter the following subsection (before *Explanation 1*):

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“(2) A person may abet the doing of a thing despite the existence of facts of which he is unaware which make the doing of the thing impossible.”;

(b) by deleting the words “wilful misrepresentation, or by wilful” in *Explanation 1* and substituting the words “intentional misrepresentation, or by intentional”; and

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(c) by deleting the word “wilfully” in the *illustration* and substituting the word “intentionally”.

**Amendment of section 115**

**34.** Section 115 of the Penal Code is amended —

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(a) by deleting the words “7 years” (including in the *Illustration*) and substituting in each case the words “15 years”; and

(b) by deleting the words “14 years” (including in the *Illustration*) and substituting in each case the words “20 years”.

20

**Repeal and re-enactment of section 116**

**35.** Section 116 of the Penal Code is repealed and the following section substituted therefor:

**“Abetment of offence punishable with imprisonment**

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**116.—**(1) Whoever abets an offence punishable with imprisonment shall, if that offence is not committed in consequence of the abetment, and no express provision is made by this Code or any other written law for the punishment of such abetment, be punished in the same manner as if the abettor had committed the offence.

30

(2) Despite subsection (1), where the punishment prescribed for an offence mentioned in that subsection is fixed by law, or is a specified minimum sentence or a mandatory minimum sentence of imprisonment or fine or caning, the court sentencing the person who abetted the offence —

(a) shall not be bound to impose the fixed, specified minimum or mandatory minimum sentence; and

(b) may sentence the abettor to such sentence or combination of sentences as the court thinks fit but not exceeding the maximum punishment prescribed for that offence.

(3) To avoid doubt, nothing in subsection (2)(b) empowers a court to impose a type of punishment that is not prescribed for an offence mentioned in subsection (1) or otherwise provided by any written law for that offence.

*Illustrations*

(a) *A* offers a bribe to *B*, a public servant, as a reward for showing *A* some favour in the exercise of *B*'s official functions. *B* refuses to accept the bribe. *A* is punishable under this section for abetting the offence in section 161.

(b) *A* instigates *B* to give false evidence. Here, if *B* does not give false evidence, *A* has nevertheless committed the offence defined in this section, and is punishable accordingly.

(c) *A*, a police officer, whose duty it is to prevent robbery, abets the commission of robbery. Here, though the robbery is not committed, *A* is liable to the maximum term of imprisonment provided for that offence.

(d) *B* abets the commission of a robbery by *A*, a police officer, whose duty it is to prevent that offence. Here, though the robbery is not committed, *B* is liable to the same punishment as if he had committed the offence of robbery.”.

**Repeal and re-enactment of sections 120A and 120B**

**36.** Sections 120A and 120B of the Penal Code are repealed and the following sections substituted therefor:

**“Definition of criminal conspiracy**

**120A.**—(1) When a person agrees with another person to commit an offence or cause an offence to be committed, such an agreement is designated a criminal conspiracy.

(2) A person may be a party to a criminal conspiracy despite the existence of facts of which he is unaware which make the commission of the offence impossible.

(3) A person may be a party to a criminal conspiracy even though any other person who agrees to commit the offence that is the subject of the conspiracy or to cause that offence to be committed does not intend to carry out that agreement.

(4) A person may be a party to a criminal conspiracy in Singapore to commit an offence outside Singapore, which would constitute an offence if committed in Singapore.

(5) A person may be a party to a criminal conspiracy to commit an offence in Singapore even though all or any of the acts constituting the criminal conspiracy were done outside Singapore.

*Explanation.*—It is immaterial whether the offence is the ultimate object of such agreement, or is merely incidental to that object.

### **Punishment of criminal conspiracy**

**120B.** Whoever is a party to a criminal conspiracy shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted the offence that is the subject of the conspiracy.”

### **Amendment of section 121**

**37.** Section 121 of the Penal Code is amended by deleting the words “and shall, if he is not sentenced to death, also be liable to fine”.

### **Amendment of section 121A**

**38.** Section 121A of the Penal Code is amended by deleting the words “and shall, if he is not sentenced to death, also be liable to fine”.

### **Amendment of section 121B**

**39.** Section 121B of the Penal Code is amended by deleting the words “, and shall also be liable to fine”.

**Amendment of section 122**

40. Section 122 of the Penal Code is amended by inserting, immediately after the words “and shall”, the words “, if he is not sentenced to imprisonment for life,”.

5 **Amendment of section 124**

41. Section 124 of the Penal Code is amended by inserting, immediately after the words “and shall”, the words “, if he is not sentenced to imprisonment for life,”.

**Amendment of section 125**

10 42. Section 125 of the Penal Code is amended by deleting the words “life, to which fine may be added;” and substituting the word “life,”.

**Amendment of section 128**

15 43. Section 128 of the Penal Code is amended by inserting, immediately after the words “and shall”, the words “, if he is not sentenced to imprisonment for life,”.

**Amendment of section 130**

44. Section 130 of the Penal Code is amended by inserting, immediately after the words “and shall”, the words “, if he is not sentenced to imprisonment for life,”.

20 **Amendment of section 131**

45. Section 131 of the Penal Code is amended by inserting, immediately after the words “and shall”, the words “, if he is not sentenced to imprisonment for life,”.

**Amendment of section 132**

25 46. Section 132 of the Penal Code is amended by inserting, immediately after the words “and shall”, the words “, if he is not sentenced to death or imprisonment for life,”.

### **Amendment of section 136**

**47.** Section 136 of the Penal Code is amended —

- (a) by deleting the words “, except as hereinafter excepted,”;
- (b) by inserting, immediately after the words “or serviceman”, the words “with the intention of preventing the officer or serviceman from being apprehended,”; and
- (c) by deleting the *Exception*.

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### **Amendment of section 137**

**48.** Section 137 of the Penal Code is amended by deleting the words “liable to a penalty” and substituting the words “punished with a fine”.

10

### **Amendment of section 157**

**49.** Section 157 of the Penal Code is amended by inserting, immediately after the words “unlawful assembly,”, the words “with the intention of permitting or facilitating them to join or become members of an unlawful assembly, or of screening them or any of them from punishment,”.

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### **Amendment of section 172**

**50.** Section 172 of the Penal Code is amended by deleting “\$3,000” and substituting “\$5,000”.

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### **Repeal and re-enactment of sections 173 to 177**

**51.** Sections 173 to 177 of the Penal Code are repealed and the following sections substituted therefor:

#### **“Preventing service of summons, etc., or preventing publication thereof**

25

**173.**—(1) A person who in any manner —

- (a) intentionally prevents the serving on himself, or on any other person, of any summons, notice or order, proceeding from any public servant legally

competent, as such public servant, to issue such summons, notice or order;

(b) intentionally prevents the lawful affixing to any place of any such summons, notice or order, or intentionally removes any such summons, notice or order from any place to which it is lawfully affixed; or

(c) intentionally prevents the lawful making of any proclamation, under the authority of any public servant legally competent, as such public servant, to direct such proclamation to be made,

shall —

(d) in the case of an individual, be punished with imprisonment for a term which may extend to one month, or with fine which may extend to \$1,500, or with both; or

(e) in any other case, be punished with fine which may extend to \$10,000.

(2) If the summons, notice, order, or proclamation is to attend in person or by agent before a court, or to produce a document or an electronic record before a court, any person who is guilty of an offence under subsection (1) shall —

(a) in the case of an individual, be punished with imprisonment for a term which may extend to 6 months, or with fine which may extend to \$5,000, or with both; or

(b) in any other case, be punished with fine which may extend to \$10,000.

### **Failure to attend in obedience to order from public servant**

**174.**—(1) A person who, being legally bound to attend in person or by an agent at a certain place and time in obedience to a summons, a notice, an order or a proclamation, proceeding from any public servant legally competent, as such public servant, to issue the same, intentionally omits to attend at the

place or time, or departs from the place where the person is bound to attend before the time at which it is lawful for the person to depart, shall —

(a) in the case of an individual, be punished with imprisonment for a term which may extend to one month, or with fine which may extend to \$1,500, or with both; or

(b) in any other case, be punished with fine which may extend to \$10,000.

(2) If the summons, notice, order or proclamation is to attend in person or by agent before a court, any person who is guilty of an offence under subsection (1) shall —

(a) in the case of an individual, be punished with imprisonment for a term which may extend to 6 months, or with fine which may extend to \$5,000, or with both; or

(b) in any other case, be punished with fine which may extend to \$10,000.

#### *Illustrations*

(a) *A*, being legally bound to appear before the High Court, in obedience to a subpoena issuing from that Court, intentionally omits to appear. *A* has committed the offence defined in this section.

(b) *A*, being legally bound to appear before a Magistrate as a witness, in obedience to a summons issued by that Magistrate, intentionally omits to appear. *A* has committed the offence defined in this section.

### **Omission to produce document or electronic record to public servant by person legally bound to produce such document or electronic record**

**175.** A person who, being legally bound to produce or deliver up any document or electronic record to any public servant, as such, intentionally omits so to produce or deliver up the same, shall —

(a) in the case of an individual, be punished with imprisonment for a term which may extend to one

month, or with fine which may extend to \$1,500, or with both; or

(b) in any other case, be punished with fine which may extend to \$10,000.

5

**Omission to give notice or information to public servant by person legally bound to give such notice or information**

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**176.**—(1) A person who, being legally bound to give any notice or to furnish information on any subject to any public servant, as such, intentionally omits to give such notice or to furnish such information in the manner and at the time required by law, shall —

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(a) in the case of an individual, be punished with imprisonment for a term which may extend to one month, or with fine which may extend to \$1,500, or with both; or

(b) in any other case, be punished with fine which may extend to \$10,000.

20

(2) If the notice or information required to be given respects the commission of an offence, or is required for the purpose of preventing the commission of an offence or in order to the apprehension of an offender, any person who is guilty of an offence under subsection (1) shall —

25

(a) in the case of an individual, be punished with imprisonment for a term which may extend to 6 months, or with fine which may extend to \$5,000, or with both; or

(b) in any other case, be punished with fine which may extend to \$10,000.

**Furnishing false information**

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**177.**—(1) A person who, being legally bound to furnish information on any subject to any public servant, as such, furnishes, as true, information on the subject which the person knows or has reason to believe to be false, shall —

(a) in the case of an individual, be punished with imprisonment for a term which may extend to 6 months, or with fine which may extend to \$5,000, or with both; or

(b) in any other case, be punished with fine which may extend to \$10,000.

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(2) If the information which the person mentioned in subsection (1) is legally bound to furnish respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, the person who is guilty of an offence under that subsection shall —

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(a) in the case of an individual, be punished with imprisonment for a term which may extend to 3 years, or with fine, or with both; or

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(b) in any other case, be punished with fine.

#### *Illustration*

*A*, a landholder, knowing of the commission of a murder, within the limits of his commercial property, intentionally misinforms the police that the death has occurred by accident in consequence of the bite of a snake. *A* is guilty of the offence defined in this section.

20

*Explanation.*—In this section and section 176, “offence” includes any act committed at any place out of Singapore, which if committed in Singapore would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 399, 402, 435, 436, 449, 450, 459 and 460, and “offender” includes any person who is alleged to have been guilty of any such act.”.

25

### **Amendment of section 178**

**52.** Section 178 of the Penal Code is amended by deleting “\$3,000” and substituting “\$5,000”.

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### **Repeal and re-enactment of section 179**

**53.** Section 179 of the Penal Code is repealed and the following section substituted therefor:

**“Refusing to answer public servant authorised to question**

5       **179.** A person who, being legally bound to state the truth on any subject to any public servant, refuses to answer any question demanded of the person touching that subject by that public servant, in the exercise of the legal powers of such public servant, shall —

10           (a) in the case of an individual, be punished with imprisonment for a term which may extend to 6 months, or with fine which may extend to \$5,000, or with both; or

          (b) in any other case, be punished with fine which may extend to \$10,000.”.

**Amendment of section 182**

15       **54.** Section 182 of the Penal Code is amended by deleting the words “one year, or with fine which may extend to \$5,000” and substituting the words “2 years, or with fine”.

**Repeal and re-enactment of sections 183 to 188**

**55.** Sections 183 to 188 of the Penal Code are repealed and the following sections substituted therefor:

20       **“Resistance to taking of property by lawful authority of public servant**

25       **183.** A person who offers any resistance to the taking of any property by the lawful authority of any public servant, knowing or having reason to believe that the person is such public servant, shall —

          (a) in the case of an individual, be punished with imprisonment for a term which may extend to 6 months, or with fine which may extend to \$5,000, or with both; or

30           (b) in any other case, be punished with fine which may extend to \$10,000.

**Obstructing sale of property offered for sale by authority of public servant**

**184.** A person who intentionally obstructs any sale of property offered for sale by the lawful authority of any public servant as such, shall — 5

- (a) in the case of an individual, be punished with imprisonment for a term which may extend to one month, or with fine which may extend to \$1,500, or with both; or
- (b) in any other case, be punished with fine which may extend to \$10,000. 10

**Illegal purchase or bid for property offered for sale by authority of public servant**

**185.** A person who, at any sale of property held by the lawful authority of a public servant as such, purchases or bids for any property on account of the person or another person, whom the person knows to be under a legal incapacity to purchase that property at that sale, or bids for such property not intending to perform the obligations under which the person lays himself by such bidding, shall — 15 20

- (a) in the case of an individual, be punished with imprisonment for a term which may extend to one month, or with fine which may extend to \$1,500, or with both; or
- (b) in any other case, be punished with fine which may extend to \$10,000. 25

**Obstructing public servant in discharge of his public functions**

**186.** A person who voluntarily obstructs any public servant in the discharge of the public servant's public functions, shall — 30

- (a) in the case of an individual, be punished with imprisonment for a term which may extend to

3 months, or with fine which may extend to \$2,500, or with both; or

(b) in any other case, be punished with fine which may extend to \$10,000.

5       **Omission to assist public servant when bound by law to give assistance**

10       **187.—**(1) A person who, being bound by law to render or furnish assistance to any public servant in the execution of the public servant's public duty, intentionally omits to give such assistance, shall —

(a) in the case of an individual, be punished with imprisonment for a term which may extend to one month, or with fine which may extend to \$1,500, or with both; or

15       (b) in any other case, be punished with fine which may extend to \$10,000.

(2) If such assistance is demanded of the person mentioned in subsection (1) by a public servant legally competent to make such demand for the purposes of executing any process lawfully issued by a court, or of preventing the commission of an offence, or of suppressing a riot or an affray, or of apprehending a person charged with or guilty of an offence, or of having escaped from lawful custody, the person who is guilty of an offence under that subsection shall —

25       (a) in the case of an individual, be punished with imprisonment for a term which may extend to 6 months, or with fine which may extend to \$5,000, or with both; or

30       (b) in any other case, be punished with fine which may extend to \$10,000.

### **Disobedience to order duly promulgated by public servant**

**188.**—(1) A person who, knowing that by an order promulgated by a public servant lawfully empowered to promulgate such order the person is directed to abstain from a certain act, or to take certain order with certain property in the person's possession or under the person's management, disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed —

(a) in the case of an individual, be punished with imprisonment for a term which may extend to one month, or with fine which may extend to \$1,500, or with both; or

(b) in any other case, be punished with fine which may extend to \$10,000.

(2) If such disobedience mentioned in subsection (1) causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or an affray, the person who is guilty of an offence under that subsection shall —

(a) in the case of an individual, be punished with imprisonment for a term which may extend to 6 months, or with fine which may extend to \$5,000, or with both; or

(b) in any other case, be punished with fine which may extend to \$10,000.

*Explanation.*—It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm.

#### *Illustration*

An order is promulgated by a public servant lawfully empowered to promulgate such order, directing that a religious procession must not pass down a certain street. A knowingly disobeys the order, and thereby causes danger of riot. A has committed the offence defined in this section.”

### **Amendment of section 194**

56. Section 194 of the Penal Code is amended by inserting, immediately after the words “and shall”, the words “, if he is not sentenced to imprisonment for life,”.

### **Amendment of section 195**

57. Section 195 of the Penal Code is amended —

(a) by deleting the words “imprisonment for life, or”; and

(b) by renumbering the section as subsection (1) of that section, and by inserting immediately thereafter the following subsection (before the *illustration*):

“(2) Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which by this Code or under any other law for the time being in force is not capital, but punishable with imprisonment for life, shall be punished with imprisonment for a term which may extend to 20 years.”.

### **Amendment of section 203**

58. Section 203 of the Penal Code is amended by deleting “457, 458,” in the *Explanations*.

### **Repeal and re-enactment of section 204A**

59. Section 204A of the Penal Code is repealed and the following section substituted therefor:

#### **“Obstructing, preventing, perverting or defeating course of justice**

**204A.** Whoever does an act that has a tendency to obstruct, prevent, pervert or defeat the course of justice —

(a) knowing that the act is likely to obstruct, prevent, pervert or defeat the course of justice; or

(b) intending to obstruct, prevent, pervert or defeat the course of justice,

shall be guilty of an offence and shall on conviction be punished with imprisonment for a term which may extend to 7 years, or with fine, or with both. 5

*Explanation 1.*—A mere warning to a witness that he may be prosecuted for perjury if he gives false evidence is insufficient to constitute an offence.

*Explanation 2.*—A person sentenced to imprisonment who leaves or attempts to leave Singapore unlawfully to avoid serving that person’s sentence has done an act which has a tendency to obstruct and defeat the course of justice.”. 10

### Repeal of section 209

60. Section 209 of the Penal Code is repealed.

### Amendment of section 212

61. Section 212 of the Penal Code is amended — 15

(a) by deleting “457, 458,” in the second paragraph; and

(b) by deleting the *Exception* and *illustration* and substituting the following *illustrations*:

#### *“Illustrations*

(a) *A*, knowing that *B* has committed gang-robbery, knowingly conceals *B* in order to screen him from legal punishment. Here, as *B* is liable to imprisonment for a term of not less than 5 years and not more than 20 years, *A* is liable to imprisonment for a term not exceeding 7 years, and is also liable to fine. 20 25

(b) *A* and *B* are married to each other, and live in their matrimonial home. *A* knows that *B* has committed house-breaking. *A* provides food and shelter to *B*, with no intention to screen *B* from legal punishment. *A* is not guilty of the offence of harbouring.

(c) *A* and *B* are married to each other, and live in their matrimonial home. *A* knows that *B* has committed gang-robbery and is preparing to leave Singapore to evade arrest. *A* provides food and shelter to *B* for the purposes of helping *B* evade detection by the police before he leaves Singapore. *A* is guilty of the offence of harbouring.”. 30 35

**Amendment of section 216**

62. Section 216 of the Penal Code is amended by deleting the *Exception*.

**Amendment of section 216A**

5 63. Section 216A of the Penal Code is amended by deleting the *Exception*.

**Amendment of heading to Chapter XII**

64. Chapter XII of the Penal Code is amended by deleting the words “COIN AND” in the Chapter heading.

10 **Repeal of sections 230 to 254A**

65. Sections 230 to 254A of the Penal Code are repealed.

**Repeal of Chapter XIII**

66. Chapter XIII of the Penal Code is repealed.

**New sections 268A, 268B and 268C**

15 67. The Penal Code is amended by inserting, immediately after section 268, the following sections:

**“Communicating false information of harmful thing**

268A. Any person who transmits or communicates or causes to be transmitted or communicated information —

20 (a) which contains a reference to the presence in any place or location or in any conveyance or means of transportation of any thing that is likely to cause hurt or damage to property by any means; and

25 (b) that person knows that such reference is false or fabricated,

shall be guilty of an offence and shall on conviction be punished with imprisonment for a term which may extend to 7 years, or with fine which may extend to \$50,000, or with both.

**Placing or sending thing with intent to cause fear of harm**

**268B.**—(1) Any person (*A*) who without reasonable excuse —

- (a) places any thing in any place or location or in any conveyance or means of transportation; or
- (b) sends any thing from one place to another place by post, courier or any other means,

5

with the intention (in either case) of inducing in one or more other persons a belief that this thing is likely to cause hurt or damage to property by any means, shall be guilty of an offence and shall on conviction be punished with imprisonment for a term which may extend to 7 years, or with fine which may extend to \$50,000, or with both.

10

(2) For the purposes of subsection (1) and to avoid doubt, it is not necessary for *A* to have any particular person or persons in mind as being induced to have the belief mentioned in subsection (1).

15

**Placing or sending thing causing fear of harm**

**268C.**—(1) Any person who intentionally and without reasonable excuse —

- (a) places any thing in any place or location or in any conveyance or means of transportation; or
- (b) sends any thing from one place to another place by post, courier or any other means,

20

knowing that there is a real risk (in either case) that one or more persons would believe that this thing is likely to cause hurt or damage to property by any means, shall be guilty of an offence and shall on conviction be punished with imprisonment for a term which may extend to 6 months, or with fine which may extend to \$5,000, or with both.

25

(2) To avoid doubt, it is not necessary for the accused person to have any particular person or persons in mind as being at risk of having the belief mentioned in subsection (1).”.

30

**Amendment of section 272**

68. Section 272 of the Penal Code is amended by deleting the words “6 months, or with fine which may extend to \$1,500” and substituting the words “3 years, or with fine”.

5 **Amendment of section 273**

69. Section 273 of the Penal Code is amended by deleting the words “6 months, or with fine which may extend to \$3,000” and substituting the words “3 years, or with fine”.

**Amendment of section 274**10 

70. Section 274 of the Penal Code is amended by deleting the words “6 months, or with fine which may extend to \$3,000” and substituting the words “3 years, or with fine”.

**Amendment of section 275**15 

71. Section 275 of the Penal Code is amended by deleting the words “6 months, or with fine which may extend to \$3,000” and substituting the words “3 years, or with fine”.

**Amendment of section 276**20 

72. Section 276 of the Penal Code is amended by deleting the words “6 months, or with fine which may extend to \$3,000” and substituting the words “3 years, or with fine”.

**Amendment of section 277**

73. Section 277 of the Penal Code is amended by deleting the words “one year, or with fine which may extend to \$2,500” and substituting the words “3 years, or with fine”.

25 **Amendment of section 278**

74. Section 278 of the Penal Code is amended by deleting the words “one year, or with fine which may extend to \$2,500” and substituting the words “3 years, or with fine”.

## Repeal and re-enactment of sections 284 to 289

75. Sections 284 to 289 of the Penal Code are repealed and the following sections substituted therefor:

### **“Rash or negligent conduct with respect to dangerous or harmful substance**

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**284.**—(1) A person shall be guilty of an offence who does, with any dangerous or harmful substance, any act so rashly or negligently as —

- (a) to be likely to cause hurt or injury to any other person;
- (b) to endanger human life;
- (c) to cause hurt to any other person;
- (d) to cause grievous hurt or injury to any other person; or
- (e) to cause the death of any other person.

10

(2) In subsection (1), an act includes an omission to take such measure with any dangerous or harmful substance in a person’s possession as is sufficient to guard against any probable danger to human life, grievous hurt or hurt from such substance.

15

(3) Any person who is guilty of an offence under subsection (1) or (2) shall on conviction be punished —

- (a) in the case of an offence under subsection (1)(a) or (b), with imprisonment for a term which may extend to one year, or with fine which may extend to \$5,000, or with both;
- (b) in the case of an offence under subsection (1)(c), with imprisonment for a term which may extend to 3 years, or with fine, or with both;
- (c) in the case of an offence under subsection (1)(d), with imprisonment for a term which may extend to 6 years, or with fine, or with both; and
- (d) in the case of an offence under subsection (1)(e), with imprisonment for a term which may extend to 7 years, or with fine, or with both.

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(4) In this section, “dangerous or harmful substance” includes fire or any thing or matter that is likely to cause fire.

### **Causing or contributing to risk of dangerous fire**

5 **285.**—(1) Whoever, with any fire or any thing that is likely to cause fire, rashly or negligently causes or substantially contributes to the risk of causing a fire, shall be guilty of an offence if such fire occurs and any of the following applies:

(a) that fire is likely to cause hurt or injury to any other person;

10 (b) that fire endangers human life;

(c) that fire causes damage to or diminishes the value or utility of any property belonging to any other person or the Government;

(d) that fire causes hurt or injury to any other person;

15 (e) that fire causes grievous hurt to any other person;

(f) that fire causes death to any other person.

(2) Any person who is guilty of an offence under subsection (1) shall on conviction be punished —

20 (a) in the case of an offence under subsection (1)(a) or (b), with imprisonment for a term which may extend to one year, or with fine which may extend to \$5,000, or with both;

25 (b) in the case of an offence under subsection (1)(c), with imprisonment for a term which may extend to 18 months, or with fine, or with both;

(c) in the case of an offence under subsection (1)(d), with imprisonment for a term which may extend to 3 years, or with fine, or with both;

30 (d) in the case of an offence under subsection (1)(e), with imprisonment for a term which may extend to 6 years, or with fine, or with both; and

- (e) in the case of an offence under subsection (1)(f), with imprisonment for a term which may extend to 7 years, or with fine, or with both.

### **Presumption of cause of fire**

**286.** In any proceedings for an offence under section 285, where any person deposits, drops, places or throws a cigarette or part thereof, cigar, match stick, charcoal, incense, any form of embers or any thing that is likely to cause fire in any place, and a fire occurs at that place or in the vicinity of that place within 60 minutes from the time of that act, that person is, until the contrary is proved, presumed to have substantially contributed to the risk of causing that fire. 5 10

### **Rash or negligent conduct with respect to any machinery in possession or under charge of offender**

**287.—**(1) A person shall be guilty of an offence who does, with any machinery in the person's possession or under the person's care, any act so rashly or negligently as — 15

- (a) to be likely to cause hurt or injury to any other person;
- (b) to endanger human life;
- (c) to cause hurt or injury to any other person;
- (d) to cause grievous hurt to any other person; or
- (e) to cause the death of any other person. 20

(2) In subsection (1), an act includes an omission to take such measure with any machinery in the person's possession or under the person's care as is sufficient to guard against any probable danger to human life, grievous hurt or hurt from such machinery. 25

(3) Any person who is guilty of an offence under subsection (1) shall on conviction be punished —

- (a) in the case of an offence under subsection (1)(a) or (b), with imprisonment for a term which may extend to one year, or with fine which may extend to \$5,000, or with both; 30

(b) in the case of an offence under subsection (1)(c), with imprisonment for a term which may extend to 3 years, or with fine, or with both;

5 (c) in the case of an offence under subsection (1)(d), with imprisonment for a term which may extend to 6 years, or with fine, or with both; and

(d) in the case of an offence under subsection (1)(e), with imprisonment for a term which may extend to 7 years, or with fine, or with both.

### 10 **Negligence in pulling down or repairing buildings**

**288.**—(1) A person shall be guilty of an offence who, in pulling down or repairing any building, knowingly or negligently omits to take such measure as is sufficient to guard against any probable danger to human life from the fall of that building or any part of the building and such omission —

(a) endangers human life; or

(b) causes the death of any other person.

(2) Any person who is guilty of an offence under subsection (1) shall on conviction be punished —

20 (a) in the case of an offence under subsection (1)(a), with imprisonment for a term which may extend to one year, or with fine which may extend to \$5,000, or with both; and

25 (b) in the case of an offence under subsection (1)(b), with imprisonment for a term which may extend to 7 years, or with fine, or with both.

### **Negligence with respect to any animal**

30 **289.**—(1) A person shall be guilty of an offence who knowingly or negligently omits to take such measure with any animal as is sufficient to guard against any probable danger to human life, or any probable danger of grievous hurt from such animal and such omission —

- (a) is likely to cause grievous hurt;
- (b) endangers human life;
- (c) causes grievous hurt to any other person; or
- (d) causes the death of any other person.

(2) Any person who is guilty of an offence under subsection (1) shall on conviction be punished — 5

- (a) in the case of an offence under subsection (1)(a) or (b), with imprisonment for a term which may extend to one year, or with fine which may extend to \$5,000, or with both; 10
- (b) in the case of an offence under subsection (1)(c), with imprisonment for a term which may extend to 6 years, or with fine, or with both; and
- (c) in the case of an offence under subsection (1)(d), with imprisonment for a term which may extend to 7 years, or with fine, or with both.”. 15

### **Repeal and re-enactment of section 290**

76. Section 290 of the Penal Code is repealed and the following section substituted therefor:

#### **“Punishment for public nuisance 20**

**290.** Whoever commits a public nuisance in any case not otherwise punishable by this Code, shall be guilty of an offence and shall be punished —

- (a) with fine which may extend to \$2,000;
- (b) in the case where the offender knew that the act or omission constituting the public nuisance will cause or will probably cause any common injury, danger or annoyance to the public, or to the people in general who dwell or occupy property in the vicinity, with imprisonment for a term which may extend to 3 months, or with fine which may extend to \$2,000, or with both; or 25 30

(c) on a second or subsequent conviction, with imprisonment for a term which may extend to 3 months, or with fine which may extend to \$2,000, or with both.”.

5 **Amendment of section 292**

77. Section 292 of the Penal Code is amended by inserting, immediately after subsection (1), the following subsection:

10 “(1A) A person who is guilty of an offence under subsection (1) in the case where the obscene object mentioned in that subsection depicts an image of a person who is or who appears to a reasonable observer to be or is implied to be below 16 years of age shall be punished with imprisonment for a term which may extend to 2 years, or with fine, or with both.”.

**New section 292A**

15 78. The Penal Code is amended by inserting, immediately after section 292, the following section:

**“Possession, distribution, etc., of child sex-doll**

20 **292A.**—(1) Any person who imports, exports, conveys, sells, lets to hire, distributes, puts into circulation, makes, produces or is in possession of a child sex-doll shall be guilty of an offence and shall on conviction be punished with imprisonment for a term which may extend to 2 years, or with fine, or with both.

25 (2) In subsection (1), “child sex-doll” means an anatomically correct doll, mannequin or robot, with the features of, or with features that appear to a reasonable observer to resemble a person below 16 years of age and intended for use in sexual activities.”.

**Amendment of section 294**

79. Section 294 of the Penal Code is amended —

30 (a) by deleting the words “song, ballad or” in paragraph (b);  
and

- (b) by deleting the section heading and substituting the following section heading:

“**Obscene acts**”.

**Amendment of section 300**

80. Section 300 of the Penal Code is amended —

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- (a) by deleting proviso (b) of *Exception 1* and substituting the following proviso:

“(b) that the offender did not know and had no reason to believe that the provocation was given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant;”;

10

- (b) by deleting the *Explanation* to *Exception 1* and substituting the following *Explanations*:

“*Explanation 1.*—Whether the provocation was grave and sudden enough to prevent the offence from amounting to murder is a question of fact, having regard to whether an ordinary person of the same gender and age as the offender, sharing such characteristics as would affect the gravity of the provocation and placed in the same situation as the offender, would be deprived of self-control by the provocation.

15

20

*Explanation 2.*—Grave and sudden provocation may be in the form of words, gestures or conduct or any combination of words, gestures or conduct.”;

- (c) by inserting, immediately after *illustration (f)* to *Exception 1*, the following *illustration*:

25

“(g) *A* and *Z* are married to each other. *A* loses self-control on *Z*’s provocation and intentionally kills *Z* soon after the provocation was given. Although the provocation, when viewed in isolation, would not amount to grave and sudden provocation, it was the last of a series of prolonged physical and mental abuse of *A* by *Z*. An ordinary person in *A*’s position would have lost self-control and have done what *A* did. *A* has committed only culpable homicide and not murder.”;

30

- (d) by deleting the words “in good faith” in *Exception 2*;

35

- (e) by inserting, immediately after *Exception 2*, the following *Explanation*:

“*Explanation*.—The word “premeditation” means the offender’s intention to cause death in section 300(a) or to cause such bodily injury as is mentioned in section 300(b) or (c) or the offender’s knowledge that the act is so imminently dangerous in the way mentioned in section 300(d).”;

(f) by inserting, immediately after *Exception 3*, the following proviso:

“The above exception is subject to the proviso that the offender did not know and had no reason to believe that the person whose death was caused was acting in obedience to the law, or was a public servant acting in the lawful exercise of the powers of such public servant.”;

(g) by renumbering the *Explanation* to *Exception 4* as *Explanation 1* of that *Exception*, and by inserting immediately thereafter the following *Explanations* and *Illustrations*:

“*Explanation 2*.—The word “fight” includes the exchange of blows even if the blows do not land on their target and includes a single blow or punch.

*Explanation 3*.—The word “premeditation” means the offender’s intention to cause death in section 300(a) or to cause such bodily injury as is mentioned in section 300(b) or (c) or the offender’s knowledge that the act is so imminently dangerous in the way mentioned in section 300(d).

*Explanation 4*.—A “quarrel” does not require a verbal exchange of words.

#### *Illustrations*

(a) *A* and *Z*, who are rival gang members, are in a coffee shop seated at different tables. They mutually stare at each other fiercely without exchanging any words. *Z* disengages from *A* by turning away and starts to leave the coffee shop. *A* sees a cutlery knife on his table which *A* had earlier used for *A*’s meal. *A* picks up the cutlery knife and stabs *Z*’s throat in the heat of passion. *Z* falls and dies almost immediately. Although there was a “sudden quarrel” without any exchange of words, *Exception 4* does not apply because there was no “fight”, there being no exchange of blows or assault between *A* and *Z*.

(b) *A* had a consensual sexual relationship with *Z* until *Z* terminated the relationship. *A* came to *Z*’s house and asked *Z* if *Z* would have sex with *A*. *Z* refused. *A* became angry and said *A* would use force, if necessary. *A* grappled with *Z* who resisted *A*’s advances and struck *A*’s face. Enraged by *Z*’s resistance, *A* slams *Z* into a wall,

and Z slumps to the ground. While Z is motionless on the ground, A kicks Z's head repeatedly and kills Z. *Exception 4* does not apply because A had taken undue advantage of Z while Z was lying motionless on the ground.”;

- (h) by deleting the *Illustration* to *Exception 5* and substituting the following *Illustration*: 5

*“Illustration*

A and Z, both being persons above 18 years of age, decide to commit suicide together by drinking poison. With Z's consent, A pours a lethal poison down Z's throat but after watching Z die, A cannot summon the courage to drink the same poison. A has committed culpable homicide and not murder.”; and 10

- (i) by deleting *Exception 7* and substituting the following *Exception*:

*“Exception 7.—*Culpable homicide is not murder if at the time of the acts or omissions causing the death concerned, the offender was suffering from such abnormality of mind (whether arising from a condition of arrested or retarded development or any inherent causes or induced by disease or injury) as substantially — 15

(a) impaired the offender's capacity — 20

(i) to know the nature of the acts or omissions in causing the death or in being a party to causing the death; or

(ii) to know whether such acts or omissions are wrong (whether wrong by the ordinary standards of reasonable and honest persons or as contrary to law); or 25

(b) impaired the offender's power to control his acts or omissions in causing the death or being a party to causing the death.”. 30

### **Amendment of section 301**

**81.** The Penal Code is amended by renumbering section 301 as subsection (1) of that section, and by inserting immediately thereafter the following subsection: 35

“(2) To avoid doubt, in the circumstances mentioned in subsection (1), the accused person may rely on any defence or

exception in law as though the accused person had caused the death of the person whose death he intended or knew himself to be likely to cause.”.

#### **Amendment of section 304**

5     **82.** Section 304 of the Penal Code is amended by deleting the words “10 years” in paragraph (b) and substituting the words “15 years”.

#### **New sections 304B and 304C**

**83.** The Penal Code is amended by inserting, immediately after section 304A, the following sections:

10     **“Causing death of child below 14 years of age, domestic worker or vulnerable person by sustained abuse**

15     **304B.**—(1) Whoever causes the death of any child, domestic worker or vulnerable person by sustained abuse shall be punished with imprisonment for a term which may extend to 20 years, and shall also be liable to fine or to caning.

(2) In this section —

“child” means a person below 14 years of age;

“domestic worker”, “employer” and “employment agent” have the meanings given by section 73(4);

20     “neglect” means the failure by a relevant person to provide any or adequate essential care (such as but not limited to food, clothing, medical aid, lodging and other necessities of life) to the extent of causing personal injury or physical pain to, or injury to the physical health of any child, domestic worker or vulnerable person;

25     “relevant person” means —

(a) in the case of a child, a person who has custody, charge or care of the child;

30     (b) in the case of a domestic worker, the employer of the domestic worker or the employment agent of the domestic worker; and

(c) in the case of a vulnerable person, a person who has custody, charge or care of the vulnerable person;

“sustained abuse” means a course of conduct which consists of voluntarily causing hurt or knowingly causing neglect, or both, of a child, domestic worker or vulnerable person on —

(a) 2 or more occasions; or

(b) a single occasion if the conduct is protracted;

“vulnerable person” has the meaning given by section 74A(5).

### **Causing or allowing death of child below 14 years of age or vulnerable person in same household**

**304C.**—(1) A person (*A*) shall be guilty of an offence if —

(a) a person below 14 years of age or a vulnerable person (*B*) dies as a result of the unlawful act of a person who —

(i) was a member of the same household as *B*; and

(ii) had frequent contact with *B*;

(b) *A* was a member of the same household as *B*, and had frequent contact with *B* at the time of that act;

(c) at that time there was a significant risk of grievous hurt being caused to *B* by the unlawful act of such a person; and

(d) either *A* was the person whose act caused *B*’s death or —

(i) *A* was, or ought to have been, aware of the significant risk mentioned in paragraph (c);

(ii) *A* failed to take such steps as *A* could reasonably have been expected to take to protect *B* from the significant risk; and

(iii) the unlawful act occurred in circumstances of the kind that *A* foresaw or ought to have foreseen.

5 (2) The prosecution does not have to prove whether it is the first alternative element in subsection (1)(*d*) or the second alternative element (sub-paragraphs (i), (ii) and (iii) of subsection (1)(*d*)) that applies.

10 (3) *A* is not guilty of an offence under this section if *A* could not have been expected in *A*'s circumstances to take any such step as is mentioned in subsection (1)(*d*)(ii).

(4) Any person who is guilty of an offence under this section shall be punished with imprisonment for a term which may extend to 20 years, and shall also be liable to fine or to caning.

(5) For the purposes of this section —

15 (a) a person is to be regarded as a “member” of a particular household, even if that person does not live in that household, if that person visits it so often and for such periods of time that it is reasonable to regard him as a member of the particular household;

20 (b) where *B* lived in different households at different times, “the same household as *B*” refers to the household in which *B* was living at the time of the act that caused *B*'s death;

25 (c) an “unlawful” act, other than an act by *A*, is one that constitutes an offence or would constitute an offence but for being the act of —

(i) a person below 10 years of age;

30 (ii) a person of or above 10 years of age but below 12 years of age who had not attained sufficient maturity of understanding to judge of the nature and consequence of the act;

(iii) a person entitled to rely on a defence of unsoundness of mind;

- (iv) a person entitled to rely on a defence of intoxication; or
- (v) a person entitled to rely on a defence of mistake of fact;
- (d) “vulnerable person” has the meaning given by section 74A(5); and 5
- (e) the circumstances mentioned in subsection (3) include but is not limited to *A*’s past or present experiences of suffering neglect, hurt, grievous hurt, sexual abuse or any injury to *A*’s mental health as a result of an unlawful act by any member of the same household as *A*.”. 10

### **Repeal and re-enactment of section 305**

**84.** Section 305 of the Penal Code is repealed and the following section substituted therefor: 15

#### **“Abetment of suicide or attempted suicide of minor or person who lacks mental capacity**

**305.—**(1) If any minor or other person who lacks capacity —

- (a) commits suicide, whoever abets the commission of the suicide and who knew or ought reasonably to have known that the person who committed suicide was a minor or a person who lacks capacity, shall be punished with death or imprisonment for life, or with imprisonment for a term which may extend to 20 years, and shall, if he is not sentenced to death or imprisonment for life, also be liable to fine; 20 25
- (b) attempts suicide, whoever abets the attempted suicide and who knew or ought reasonably to have known that the person who attempted suicide was a minor or a person who lacks capacity, shall be punished with imprisonment for a term which may extend to 15 years, and shall also be liable to fine; or 30

(c) attempts suicide and hurt is caused to any person in the course of the attempted suicide, whoever abets the attempted suicide and who knew or ought reasonably to have known that the person who attempted suicide was a minor or a person who lacks capacity, shall be punished with imprisonment for life or with imprisonment for a term which may extend to 20 years, and shall, if he is not sentenced to imprisonment for life, also be liable to fine.

(2) In subsection (1) —

“minor” means a person below 18 years of age;

“person who lacks capacity” means a person who lacks capacity to understand the consequences of attempting or committing suicide, as the case may be, from unsoundness of mind, mental incapacity, intoxication, or the influence of any drug or other substance.”.

### **Amendment of section 306**

**85.** Section 306 of the Penal Code is amended —

(a) by inserting, immediately after the words “any person”, the words “attempts or”;

(b) by inserting, immediately after the words “commission of such”, the words “attempted suicide or”; and

(c) by inserting, immediately after the word “suicide” in the section heading, the words “or attempted suicide”.

### **Amendment of section 307**

**86.** Section 307 of the Penal Code is amended by deleting subsection (1) and substituting the following subsection:

“(1) Whoever does any act with the intention of causing death and under such circumstances that if he by that act caused death he would be guilty of murder, shall be punished with imprisonment for a term which may extend to 15 years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be punished with —

- (a) imprisonment for life and shall also be liable to caning; or
- (b) imprisonment for a term which may extend to 20 years, and shall also be liable to fine, or to caning or to both.”.

5

### **Amendment of section 308**

**87.** Section 308 of the Penal Code is amended by deleting the words “such intention or knowledge” and substituting the words “the intention to cause death”.

### **New sections 308A and 308B**

10

**88.** The Penal Code is amended by inserting, immediately after section 308, the following sections:

#### **“Causing death in furtherance of group’s object**

**308A.—**(1) Any person shall be guilty of an offence who is or acts as a member of a group —

15

- (a) knowing that the common object of the members of the group is to commit an offence under this Code or any written law;
- (b) knowing that —
  - (i) death or grievous hurt is likely to be caused in furtherance of the group’s common object; or
  - (ii) a deadly weapon, or anything which, used as a weapon of offence, is likely to cause death, is to be used in any manner against another person in the furtherance of that common object; and
- (c) the death of a person was caused in furtherance of the group’s common object.

20

25

*Illustration*

Three members of a group including *A* decide to rob a neighbourhood shop. The group leader, *B* brings a sharp knife but *B* reassures *A* that the knife is only to be used to threaten the shopkeeper, *C*, and not to harm *C*. *A* believes *B* and takes part in the robbery. *C* however refuses to surrender his cash to the group. *B* then stabs *C* with the knife and *C* dies from his stab wounds. *A* is guilty of an offence under this section because *A* knew that the knife was to be used to threaten another person, *C*, in furtherance of the group's common object to commit robbery.

(2) A person who is guilty of an offence under subsection (1) shall be punished with imprisonment for life or imprisonment for a term which may extend to 20 years, and shall also be liable to caning.

(3) In subsection (1), "group" has the meaning given by section 2(1) of the Organised Crime Act 2015 (Act 26 of 2015).

**Concealment, desecration or disposal of corpse that impedes discovery, identification, criminal investigations or prosecutions**

**308B.**—(1) A person shall be guilty of an offence who intentionally or knowingly conceals, desecrates or disposes of a human corpse and by such act impedes or prevents —

- (a) the discovery or identification of a human corpse; or
- (b) the detection, investigation or prosecution of an offence under this Code or any other written law.

(2) A person who is guilty of an offence under subsection (1) shall be punished with imprisonment for a term which may extend to 7 years.

(3) In this section, "desecrate", in relation to a human corpse, includes any act committed after the death of a living person including but not limited to dismemberment, disfigurement, mutilation, burning, or any act committed to cause the human corpse in whole or in part to be devoured, scattered or dissipated."

**Repeal of section 309**

**89.** Section 309 of the Penal Code is repealed.

**Amendment of section 310**

**90.** Section 310 of the Penal Code is amended by deleting the word “wilful” and substituting the word “intentional”.

5

**Amendment of section 311**

**91.** Section 311 of the Penal Code is amended by inserting, immediately after the words “and shall”, the words “, if he is not sentenced to imprisonment for life,”.

**Amendment of section 312**

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**92.** Section 312 of the Penal Code is amended by deleting the words “woman is quick with child” and substituting the words “woman’s pregnancy is of more than 16 weeks’ duration as calculated in accordance with section 4 of that Act”.

**Amendment of section 313**

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**93.** Section 313 of the Penal Code is amended —

(a) by deleting the words “woman is quick with child or not” and substituting the words “woman’s pregnancy is of more than 16 weeks’ duration or not as mentioned in that section”; and

20

(b) by inserting, immediately after the words “and shall”, the words “, if he is not sentenced to imprisonment for life,”.

**Amendment of section 315**

**94.** Section 315(1) of the Penal Code is amended by deleting the word “wilful” and substituting the word “intentional”.

25

**Amendment of section 323**

**95.** Section 323 of the Penal Code is amended —

(a) by deleting the words “section 334” and substituting the words “section 323A or 334”; and

(b) by deleting the words “2 years” and substituting the words “3 years”.

### **New section 323A**

5 **96.** The Penal Code is amended by inserting, immediately after section 323, the following section and *Illustration*:

#### **“Punishment for voluntarily causing hurt which causes grievous hurt**

10 **323A.** Whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself to be likely to cause is not grievous, but the hurt which he actually causes is grievous, shall be punished with imprisonment for a term which may extend to 5 years, or with fine which may extend to \$10,000, or with both.

#### *Illustration*

15 At a club, *A* notices one of *A*’s friends fighting with *Z*. *A* runs towards *Z* and punches *Z* in the face intending or knowing himself to be likely to cause minor injuries to *Z*’s face. *Z* loses his balance, falls and hits his head against a ledge. *Z* suffers from severe brain injuries and is permanently paralysed. *A* did not intend to cause grievous hurt but *A*’s action has actually caused grievous hurt to *Z*.”.

### **Amendment of section 324**

20 **97.** Section 324 of the Penal Code is amended by deleting the word “deleterious” and substituting the word “harmful”.

### **Amendment of section 325**

25 **98.** Section 325 of the Penal Code is amended by deleting the words “section 335” and substituting the words “section 323A, 334A or 335”.

### **Amendment of section 326**

**99.** Section 326 of the Penal Code is amended —

30 (a) by deleting the word “deleterious” and substituting the word “harmful”; and

- (b) by deleting the words “fine or to caning” and substituting the words “caning or if he is not sentenced to imprisonment for life, liable to fine”.

### **Amendment of section 328**

**100.** Section 328 of the Penal Code is amended by deleting the words “, intoxicating or unwholesome drug or other thing” and substituting the words “or intoxicating substance, or any substance which is harmful to the human body to inhale, swallow or receive into the blood”.

5

### **Amendment of section 332**

**101.** Section 332 of the Penal Code is amended by deleting the words “or with fine, or with caning, or with any combination of such punishments” and substituting the words “and shall also be liable to fine or to caning, provided that in exceptional circumstances imprisonment need not be imposed”.

10

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### **Amendment of section 334**

**102.** Section 334 of the Penal Code is amended by deleting the words “3 months” and substituting the words “6 months”.

### **New section 334A**

**103.** The Penal Code is amended by inserting, immediately after section 334, the following section:

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#### **“Punishment for voluntarily causing hurt on provocation which causes grievous hurt**

**334A.** Whoever voluntarily causes hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause hurt to any person other than the person who gave the provocation and if the hurt which he intends to cause or knows himself to be likely to cause is not grievous, but the hurt which he actually causes is grievous, shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to \$7,500, or with both.”.

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30

## New sections 335A and 335B

**104.** The Penal Code is amended by inserting, immediately after section 335, the following sections:

5       **“Allowing neglect, physical or sexual abuse of domestic worker or vulnerable person**

**335A.**—(1) A person (*A*) shall be guilty of an offence if —

(a) a domestic worker (*B*) suffers neglect, hurt, grievous hurt, sexual abuse or any injury to *B*’s mental health as a result of the unlawful act of another person (*C*);

10       (b) *A* knew or had reason to believe that *B* was at risk of such neglect, hurt, grievous hurt, sexual abuse or injury caused by *C*;

(c) *A* was at the time of the risk mentioned in paragraph (b) the employer of *B*, a member of *B*’s employer’s household or an employment agent of *B*;

15       (d) *A* failed to take such steps as *A* could reasonably have been expected to take in *A*’s circumstances to protect *B* from the risk mentioned in paragraph (b); and

(e) the act occurred in circumstances of the kind that *A* foresaw or ought to have foreseen.

(2) A person (*A*) shall be guilty of an offence if —

(a) a vulnerable person (*B*) suffers neglect, hurt, grievous hurt, sexual abuse or any injury to *B*’s mental health as a result of the unlawful act of another person (*C*);

25       (b) *A* knew or had reason to believe that *B* was at risk of neglect, hurt, grievous hurt, sexual abuse or injury caused by *C*;

(c) *A* had, at the time of the risk mentioned in paragraph (b), the custody, charge or care of *B*;

30       (d) *A* failed to take such steps as *A* could reasonably have been expected to take in *A*’s circumstances to protect *B* from the risk mentioned in paragraph (b); and

- (e) the act occurred in circumstances of the kind that *A* foresaw or ought to have foreseen.

(3) For the purposes of this section, “unlawful act”, other than an act by *A*, is one that constitutes an offence that causes neglect, hurt, grievous hurt or sexual abuse to *B* or injury to *B*’s mental health or would constitute such an offence but for being the act of —

- (a) a person below 10 years of age;
- (b) a person of or above 10 years of age but below 12 years of age who had not attained sufficient maturity of understanding to judge of the nature and consequence of the act;
- (c) a person entitled to rely on a defence of unsoundness of mind;
- (d) a person entitled to rely on a defence of intoxication; or
- (e) a person entitled to rely on a defence of mistake of fact.

(4) *A*’s circumstances mentioned in subsections (1)(d) and (2)(d), include but is not limited to *A*’s past or present experiences of suffering neglect, hurt, grievous hurt, sexual abuse or any injury to *A*’s mental health as a result of an unlawful act by *C*.

(5) Any person who is guilty of an offence under subsection (1) or (2) shall on conviction —

- (a) in the case where death is caused to the domestic worker or vulnerable person, be punished with imprisonment for a term which may extend to 7 years, or with fine which may extend to \$20,000, or with both; and
- (b) in any other case, be punished with imprisonment for a term which may extend to 4 years, or with fine which may extend to \$4,000, or with both.

(6) In this section —

“domestic worker”, “employer”, “employment agent” and  
“member of the employer’s household” have the  
meanings given by section 73(4);

“neglect” has the meaning given by section 304B(2);

“sexual abuse” means abuse caused to a victim by the  
commission of a sexual offence within the meaning of  
section 2(1) of the Criminal Procedure Code;

“vulnerable person” has the meaning given by  
section 74A(5).

**Punishment for act which endangers life or personal  
safety of others with knowledge or belief that it is likely to  
cause death**

**335B.** Whoever does any act, that endangers human life or the  
personal safety of others, knowing or believing that such act is  
likely to cause death, shall be punished with imprisonment for a  
term which may extend to 7 years, or with fine, or with both.”.

**Amendment of section 342**

**105.** Section 342 of the Penal Code is amended by deleting the  
words “one year, or with fine which may extend to \$3,000” and  
substituting the words “3 years, or with fine”.

**Repeal of sections 343 and 344**

**106.** Sections 343 and 344 of the Penal Code are repealed.

**Amendment of section 361**

**107.** Section 361 of the Penal Code is amended by deleting the  
words “14 years of age if a male, or under 16 years of age if a female,”  
and substituting the words “16 years of age,”.

**Amendment of section 367**

**108.** Section 367 of the Penal Code is amended by inserting,  
immediately after the word “anus”, the words “or mouth”.

### Repeal of section 369

109. Section 369 of the Penal Code is repealed.

### Amendment of section 375

110. Section 375 of the Penal Code is amended —

(a) by inserting, immediately after subsection (1), the following subsection: 5

“(1A) Any man (*A*) who penetrates, with *A*’s penis, the anus or mouth of another person (*B*) —

(a) without *B*’s consent; or

(b) with or without *B*’s consent, when *B* is below 14 years of age, 10

shall be guilty of an offence.”; and

(b) by deleting subsections (3), (4) and (5) and substituting the following subsections:

“(3) Whoever — 15

(a) in order to commit or to facilitate the commission of an offence under subsection (1) or (1A) —

(i) voluntarily causes hurt to any person; or 20

(ii) puts a person in fear of death or hurt to that person or any other person;

(b) commits an offence under subsection (1) or (1A) against a person below 14 years of age without that person’s consent; or 25

(c) commits an offence under subsection (1) or (1A) against a person below 14 years of age with whom the offender is in a relationship that is exploitative of that person,

shall be punished with imprisonment for a term of not less than 8 years and not more than 20 years and shall 30

also be punished with caning of not less than 12 strokes.

(4) No man shall be guilty of an offence under subsection (1)(b) or (1A)(b) for an act of penetration against his wife with her consent.

(5) Despite section 79, no man shall be guilty of an offence under subsection (1)(a) or (1A)(a) if he proves that by reason of mistake of fact in good faith, he believed that the act of penetration against a person was done with consent.

(6) No man shall be punished under subsection (3)(b) if he proves that by reason of mistake of fact in good faith, he believed that the act of penetration against a person below 14 years of age was done with consent.”.

### **Amendment of section 376**

**111.** Section 376 of the Penal Code is amended —

(a) by deleting subsection (1) and substituting the following subsection:

“(1) Any man (A) who causes another man (B) to penetrate with B’s penis, the anus or mouth of A —

(a) without B’s consent; or

(b) with or without B’s consent, when B is below 14 years of age,

shall be guilty of an offence.”;

(b) by inserting, immediately after the word “penis” in subsection (2)(a), the words “, if a man”;

(c) by deleting the words “another person (C)” in subsection (2)(b) and substituting the words “another person including A”;

(d) by inserting, immediately after the word “penis” in subsection (2)(c), the words “, if a man”;

- (e) by inserting, immediately after the words “the penetration” in subsection (2), the words “or if B is below 14 years of age, whether B did or did not consent to the penetration”;
- (f) by deleting the word “or” at the end of subsection (4)(a);
- (g) by deleting paragraph (b) of subsection (4) and substituting the following paragraphs: 5
- “(b) commits an offence under subsection (1) or (2) against a person below 14 years of age without that person’s consent; or
- (c) commits an offence under subsection (1) or (2) against a person below 14 years of age with whom the offender is in a relationship that is exploitative of that person,”; 10
- (h) by inserting, immediately after subsection (4), the following subsections: 15
- “(5) No person shall be guilty of an offence under subsection (1) or (2) —
- (a) for an act of penetration against his or her spouse with the consent of that spouse; or
- (b) if despite section 79, that person proves that by reason of mistake of fact in good faith, the person believed that B mentioned in those subsections did consent to the penetration and B was not below 14 years of age. 20 25
- (6) No man shall be punished under subsection (4)(b) if he proves that by reason of mistake of fact in good faith, he believed that the act of penetration against a person below 14 years of age was done with consent.”; and 30
- (i) by deleting the word “by” in the section heading and substituting the word “involving”.

## Amendment of section 376A

**112.** Section 376A of the Penal Code is amended —

(a) by inserting, immediately after the word “penis” in subsection (1)(b) and (d), the words “, if a man”;

5 (b) by deleting the words “with or without B’s consent,” in subsection (1);

(c) by inserting, immediately after subsection (1), the following subsections:

10 “(1A) This section does not apply to an act of penetration mentioned in subsection (1) which would constitute an offence under section 375(1)(a) or (b) read with section 375(3)(b) or (c), 375(1A)(a) or (b) read with section 375(3)(b) or (c), 376(1)(a) or (b) read with section 376(4)(b) or (c), 376(2) (if the  
15 victim, B, is of or above 14 years of age) or 376(2) read with section 376(4)(b) or (c).

(1B) To avoid doubt —

(a) it is not necessary for the prosecution to prove that B did consent to an act of penetration mentioned in subsection (1);  
20 and

(b) it is not a defence that B did consent to that act.”;

(d) by deleting subsection (2) and substituting the following subsection:  
25

“(2) Whoever commits an offence under this section against a person (B) who is of or above 14 years of age but below 16 years of age —

30 (a) in a case where the offender is in a relationship that is exploitative of B, shall be punished with imprisonment for a term which may extend to 20 years, and shall also be liable to fine or to caning; and

(b) in any other case, shall be punished with imprisonment for a term which may extend to 10 years, or with fine, or with both.”; and

(e) by deleting subsection (5).

### **New section 376AA**

5

**113.** The Penal Code is amended by inserting, immediately after section 376A, the following section:

#### **“Exploitative sexual penetration of minor of or above 16 but below 18 years of age**

**376AA.**—(1) Any person (*A*) who is in a relationship that is exploitative of a person of or above 16 years of age but below 18 years of age (*B*) shall be guilty of an offence if *A* —

10

(a) penetrates, with *A*’s penis, if *A* is a man, the vagina, anus or mouth, as the case may be, of *B*;

(b) sexually penetrates, with a part of *A*’s body (other than *A*’s penis, if *A* is a man) or anything else, the vagina or anus, as the case may be, of *B*;

15

(c) causes *B*, if a man, to penetrate, with *B*’s penis, the vagina, anus or mouth, as the case may be, of another person including *A*; or

20

(d) causes *B* to sexually penetrate, with a part of *B*’s body (other than *B*’s penis, if *B* is a man) or anything else, the vagina or anus, as the case may be, of any person including *A* or *B*.

(2) For the purposes of subsection (1) —

25

(a) it is not necessary for the prosecution to prove that *B* did or did not consent to the act mentioned in that subsection; and

(b) to avoid doubt, it is not a defence that *B* did consent to that act.

30

(3) A person who is guilty of an offence under this section shall be punished with imprisonment for a term which may extend to 15 years, and shall also be liable to fine or to caning.”.

**Amendment of section 376B**

5     **114.** Section 376B(4) of the Penal Code is amended —

(a) by deleting the word “or” at the end of paragraph (a); and

(b) by deleting the full-stop at the end of paragraph (b) and substituting the word “; or”, and by inserting immediately thereafter the following paragraph:

10                                   “(c) touching which is sexual of another person or of himself or herself.”.

**Amendment of section 376C**

**115.** Section 376C of the Penal Code is amended —

15     (a) by inserting, immediately after subsection (1), the following subsections:

20                                   “(1A) To avoid doubt, any person (*A*) who does in Singapore, any act involving a person below 18 years of age (*B*) who is outside Singapore, that would if *B* were in Singapore constitute an offence under section 376B, shall be guilty of an offence.

25                                   (1B) Any person who does outside Singapore, any act involving a person below 18 years of age who is in Singapore, that would if done in Singapore constitute an offence under section 376B, shall be guilty of an offence.”; and

(b) by deleting the words “liable to the same punishment to which he would have been liable” in subsection (2) and substituting the words “punished with the same punishment with which he would have been punished”.

**Amendment of section 376E**

**116.** Section 376E of the Penal Code is amended —

- (a) by deleting the words “21 years” in subsection (1) and substituting the words “18 years”;
- (b) by deleting the words “2 or more previous occasions” in subsection (1) and substituting the words “at least one previous occasion”;
- (c) by inserting, immediately after the words “meeting B” in subsection (1)(a), the words “or B travels to attend a meeting with A which A has either initiated or agreed to whether expressly or by implication”;
- (d) by deleting paragraph (a) of subsection (2) and substituting the following paragraph:
  - “(a) section 355, 372, 373, 373A, 375, 376, 376A, 376B, 376C, 376EB, 376ED, 376F, 376H, 377(3), 377A, 377B(3), 377BA, 377BB, 377BF, 377BG or 377BH;”;
- (e) by deleting the words “2 or more previous occasions” in subsection (3) and substituting the words “previous occasion”; and
- (f) by deleting subsection (4) and substituting the following subsection:
  - “(4) A person who is guilty of an offence under this section shall on conviction —
    - (a) in the case where the offence is committed against a victim who is below 14 years of age and A does not reasonably believe that B is of or above that age, be punished with imprisonment for a term which may extend to 4 years, or with fine, or with both; or
    - (b) in any other case, be punished with imprisonment for a term which may extend to 3 years, or with fine, or with both.”.

**New sections 376EA to 376EE**

117. The Penal Code is amended by inserting, immediately after section 376E, the following sections:

**“Exploitative sexual grooming of minor of or above 16 but below 18 years of age**

**376EA.**—(1) Any person of or above 18 years of age (*A*) shall be guilty of an offence if having met or communicated with another person (*B*) on at least one previous occasion —

(a) *A* intentionally meets *B* or travels with the intention of meeting *B* or *B* travels to attend a meeting with *A* which *A* has either initiated or agreed to whether expressly or by implication; and

(b) at the time of the acts mentioned in paragraph (a) —

(i) *A* intends to do anything to or in respect of *B*, during or after the meeting, which if done will involve the commission by *A* of a relevant offence;

(ii) *B* is of or above 16 but below 18 years of age;

(iii) *A* does not reasonably believe that *B* is of or above 18 years of age; and

(iv) *A* is in a relationship that is exploitative of *B*.

(2) In subsection (1), “relevant offence” means an offence under —

(a) section 354, 354A, 355, 372, 373, 373A, 375, 376, 376AA, 376B, 376C, 376EC, 376EE, 376F, 376G, 376H, 377(3), 377A, 377B(3), 377BA, 377BB, 377BF or 377BL; or

(b) section 140(1) of the Women’s Charter (Cap. 353).

(3) For the purposes of this section, it is immaterial whether the previous occasion of *A* having met or communicated with *B* mentioned in subsection (1) took place in or outside Singapore.

(4) A person who is guilty of an offence under this section shall be punished with imprisonment for a term which may extend to 3 years, or with fine, or with both.

**Sexual communication with minor below 16 years of age**

**376EB.**—(1) Any person of or above 18 years of age (*A*) shall be guilty of an offence if — 5

(a) for the purpose of obtaining sexual gratification or of causing another person (*B*) humiliation, alarm or distress, *A* intentionally communicated with *B*;

(b) the communication is sexual; 10

(c) at the time of the communication, *B* is below 16 years of age; and

(d) *A* does not reasonably believe that *B* is of or above 16 years of age.

(2) For the purposes of this section, it is immaterial — 15

(a) whether *B* replied or responded to *A*'s communication mentioned in subsection (1); and

(b) whether such communication took place in or outside Singapore.

(3) A person who is guilty of an offence under this section shall — 20

(a) in the case where the offence is committed against a victim who is below 14 years of age and *A* does not reasonably believe that *B* is of or above that age, be punished with imprisonment for a term which may extend to 3 years, or with fine, or with both; or 25

(b) in any other case, be punished with imprisonment for a term which may extend to 2 years, or with fine, or with both.

(4) No person shall be guilty of an offence under this section for any communication with his or her spouse with the consent of that spouse. 30

**Exploitative sexual communication with minor of or above 16 but below 18 years of age**

**376EC.**—(1) Any person of or above 18 years of age (*A*) shall be guilty of an offence if —

- 5           (a) for the purpose of obtaining sexual gratification or of causing another person (*B*) humiliation, alarm or distress, *A* intentionally communicated with *B*;
- (b) the communication is sexual;
- (c) at the time of the communication, *B* is of or above 10           16 but below 18 years of age;
- (d) *A* does not reasonably believe that *B* is of or above 18 years of age; and
- (e) *B* is in a relationship with *A* that is exploitative of *B*.

(2) For the purposes of this section, it is immaterial —

- 15           (a) whether *B* replied or responded to *A*'s communication mentioned in subsection (1); and
- (b) whether such communication took place in or outside Singapore.

20           (3) A person who is guilty of an offence under this section shall be punished with imprisonment for a term which may extend to 2 years, or with fine, or with both.

**Sexual activity or image in presence of minor below 16 years of age**

25           **376ED.**—(1) Any person of or above 18 years of age (*A*) shall be guilty of an offence if —

- (a) for the purpose of obtaining sexual gratification or of causing another person (*B*) humiliation, alarm or distress, *A* intentionally engages in an activity;
- (b) the activity is sexual;

(c) *A* engages in the activity —

(i) when *B* is present or is in a place from which *A* can be observed; and

(ii) knowing or believing that *B* is aware, or intending that *B* should be aware, that *A* is engaging in it;

(d) *B* is below 16 years of age; and

(e) *A* does not reasonably believe that *B* is of or above 16 years of age.

(2) Any person of or above 18 years of age (*A*) shall be guilty of an offence if —

(a) for the purpose of obtaining sexual gratification or of causing another person (*B*) humiliation, alarm or distress, *A* intentionally causes *B* to observe an image;

(b) the image is sexual;

(c) *B* is below 16 years of age; and

(d) *A* does not reasonably believe that *B* is of or above 16 years of age.

(3) A person who is guilty of an offence under this section shall —

(a) in the case where the offence is committed against a victim who is below 14 years of age and *A* does not reasonably believe that *B* is of or above that age, be punished with imprisonment for a term which may extend to 3 years, or with fine, or with both; or

(b) in any other case, be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

(4) No person shall be guilty of an offence under this section against *B* if *B* is his or her spouse with the consent of that spouse.

**Exploitative sexual activity or image in presence of minor of or above 16 but below 18 years of age**

**376EE.**—(1) Any person of or above 18 years of age (*A*) shall be guilty of an offence if —

- 5                   (a) for the purpose of obtaining sexual gratification or of causing another person (*B*) humiliation, alarm or distress, *A* intentionally engages in an activity;
- (b) the activity is sexual;
- (c) *A* engages in the activity —
- 10                   (i) when *B* is present or is in a place from which *A* can be observed; and
- (ii) knowing or believing that *B* is aware, or intending that *B* should be aware, that *A* is engaging in it;
- 15                   (d) *B* is of or above 16 but below 18 years of age;
- (e) *A* does not reasonably believe that *B* is of or above 18 years of age; and
- (f) *A* is in a relationship with *B* that is exploitative of *B*.

20                   (2) Any person of or above 18 years of age (*A*) shall be guilty of an offence if —

- (a) for the purpose of obtaining sexual gratification or of causing another person (*B*) humiliation, alarm or distress, *A* intentionally causes *B* to observe an image;
- (b) the image is sexual;
- 25                   (c) *B* is of or above 16 but below 18 years of age;
- (d) *A* does not reasonably believe that *B* is of or above 18 years of age; and
- (e) *A* is in a relationship with *B* that is exploitative of *B*.

30                   (3) A person who is guilty of an offence under this section shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.”.

**Amendment of section 376F**

**118.** Section 376F of the Penal Code is amended —

(a) by deleting paragraph (a) of subsection (1) and substituting the following paragraph:

“(a) A intentionally touches another person (B) 5  
or intentionally incites B to touch A or B or  
another person;”;

(b) by deleting paragraph (c) of subsection (1) and substituting the following paragraphs:

“(c) A obtains B’s consent — 10

(i) where B is not A’s spouse, by means  
of an inducement offered or given, a  
threat made or a deception practised  
by A for that purpose; or

(ii) where B is A’s spouse, by means of a 15  
threat made or a deception practised  
by A for that purpose;

(ca) B has a mental disability; and”;

(c) by deleting subsection (4); and

(d) by deleting the definition of “touching” in subsection (5). 20

**Repeal and re-enactment of section 376G and new section 376H**

**119.** Section 376G of the Penal Code is repealed and the following sections substituted therefor:

**“Incest**

**376G.**—(1) Any person (A) of or above 16 years of age 25  
who —

(a) penetrates, with A’s penis, the vagina, anus or mouth,  
as the case may be, of a person of or above 16 years of  
age who is a close family relative (B);

(b) sexually penetrates, with a part of A’s body (other 30  
than A’s penis, if A is a man) or anything else, the

vagina or anus, as the case may be, of a person of or above 16 years of age who is a close family relative (*B*);

5 (c) causes or permits a man of or above 16 years of age who is a close family relative (*B*) to penetrate, with *B*'s penis, the vagina, anus or mouth, as the case may be, of *A*; or

10 (d) causes or permits a person of or above 16 years of age who is a close family relative (*B*) to sexually penetrate, with a part of *B*'s body (other than *B*'s penis, if *B* is a man) or anything else, the vagina or anus, as the case may be, of *A*,

knowing that *B* is a close family relative, shall be guilty of an offence.

15 (2) For the purposes of subsection (1), *B* is a close family relative of *A* if *B* is *A*'s grandchild, child, sibling, half-sibling, parent or grandparent (whether such relationship is or is not traced through lawful wedlock).

20 (3) A person who is guilty of an offence under this section shall be punished with imprisonment for a term which may extend to 5 years.

25 (4) This section does not apply to an act of penetration mentioned in subsection (1) which would constitute an offence under section 375(1)(a), 375(1A)(a), 376(1)(a) or (2) or 376AA(1).

(5) To avoid doubt —

(a) it is not necessary for the prosecution to prove that *B* did consent to the act of penetration mentioned in subsection (1); and

30 (b) it is not a defence that *B* did consent to that act.

(6) A person below 18 years of age who is a victim of an offence under section 376AA is not guilty of an offence under this section in respect of the same acts constituting the offence under that section.

**Procurement of sexual activity by deception or false representation**

**376H.**—(1) Any person (*A*) shall be guilty of an offence if —

- (a) *A* intentionally touches another person (*B*) or intentionally incites *B* to touch *A* or *B* or another person; 5
- (b) the touching is sexual and *B* consents to the touching;
- (c) *A* fraudulently obtains *B*'s consent by means of deception or false representation practised or made by *A* for that purpose; 10
- (d) the deception or false representation mentioned in paragraph (c) relates to —
  - (i) the use or manner of use of any sexually protective measure; or
  - (ii) whether *A* or another person whom *B* is incited to touch is suffering from or is a carrier of a sexually transmitted disease; and 15
- (e) *A* knows or has reason to believe that the consent was given in consequence of such deception or false representation. 20

(2) A person who is guilty of an offence under subsection (1) shall —

- (a) in the case where the sexual touching mentioned in that subsection involved —
    - (i) penetration of the vagina or anus (as the case may be) with a part of the body or anything else; or 25
    - (ii) penetration of the mouth with the penis,
- be punished on conviction with imprisonment for a term which may extend to 10 years, or with fine, or with caning, or any combination of such punishments; and 30

(b) in any other case, be punished on conviction with imprisonment for a term which may extend to 2 years, or with fine, or with both.

(3) For the purposes of subsection (1) —

(a) a person makes a false representation if it is untrue or misleading, and that person knows that it is, or might be, untrue or misleading;

(b) a representation may be express or implied; and

(c) a “sexually protective measure” means —

(i) where *B* is female, a device, drug or medical procedure to prevent pregnancy or sexually transmitted diseases as a result of sexual intercourse; or

(ii) where *B* is male, a device, drug or medical procedure to prevent sexually transmitted diseases as a result of sexual intercourse.”.

### **New sections 377BA to 377BN**

**120.** The Penal Code is amended by inserting, immediately after section 377B, the following sections:

#### **“Word or gesture intended to insult modesty of any person**

**377BA.** Whoever, intending to insult the modesty of any person, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound will be heard, or that such gesture or object will be seen by such person, or intrudes upon the privacy of such person, shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

#### **Voyeurism**

**377BB.**—(1) Any person (*A*) shall be guilty of an offence who —

(a) intentionally observes another person (*B*) doing a private act without *B*’s consent; and

- (b) knows or has reason to believe that *B* does not consent to being observed.
- (2) Any person (*A*) shall be guilty of an offence who —
- (a) operates equipment with the intention of enabling *A* or another person to observe a third person (*B*) doing a private act without *B*'s consent; and 5
- (b) knows or has reason to believe that *B* (whether *B*'s private act was recorded or not) does not consent to *A* operating equipment with that intention.
- (3) Any person (*A*) shall be guilty of an offence who — 10
- (a) intentionally or knowingly records another person (*B*) doing a private act without *B*'s consent; and
- (b) knows or has reason to believe that *B* does not consent to *A* recording the act with that intention.
- (4) Any person (*A*) shall be guilty of an offence who — 15
- (a) operates equipment without another person's (*B*) consent with the intention of enabling *A* or another person (*C*) to observe *B*'s genitals, breasts if *B* is female, or buttocks (whether exposed or covered) in circumstances where the genitals, breasts, buttocks or underwear would not otherwise be visible; and 20
- (b) knows or has reason to believe that *B* (whether *B*'s image was recorded or not) does not consent to *A* operating the equipment with that intention.
- (5) Any person (*A*) shall be guilty of an offence who — 25
- (a) intentionally or knowingly records without another person's (*B*) consent an image of *B*'s genitals, breasts if *B* is female, or buttocks (whether exposed or covered), in circumstances where the genitals, breasts, buttocks or underwear would not otherwise be visible; and 30
- (b) knows or has reason to believe that *B* does not consent to *A*'s recording the image with that intention.

(6) Any person (*A*) who installs equipment, or constructs or adapts a structure or part of a structure, with the intention of enabling *A* or another person to commit an offence under subsection (1), (2), (3), (4) or (5) shall be guilty of an offence.

5 (7) Subject to subsection (8), a person who is guilty of an offence under this section shall on conviction be punished with imprisonment for a term which may extend to 2 years, or with fine, or with caning, or with any combination of such punishments.

10 (8) A person who commits an offence under this section against a person who is below 14 years of age shall on conviction be punished with imprisonment for a term which may extend to 2 years and shall also be liable to fine or to caning.

15 (9) In any proceedings for an offence under this section, where a person (*A*) has made a recording of another person (*B*) doing a private act or of *B*'s genitals, breasts if *B* is female, or buttocks (whether exposed or covered), in circumstances where the genitals, breasts or buttocks would not otherwise be visible, it is presumed until the contrary is proved that *B* did not consent to *A* making the recording.

20

### **Distribution of voyeuristic image or recording**

**377BC.**—(1) Any person (*A*) shall be guilty of an offence who —

25 (a) intentionally or knowingly distributes an image or recording of another person (*B*) without *B*'s consent to the distribution;

(b) knowing or having reason to believe that the image or recording was obtained through the commission of an offence under section 377BB; and

30 (c) knows or has reason to believe that *B* does not consent to the distribution.

(2) Any person (*A*) shall be guilty of an offence who —

(a) intentionally or knowingly has in his possession an image or recording of another person (*B*) for the

purpose of distribution without *B*'s consent to the distribution;

- (b) knowing or having reason to believe that the image or recording was obtained through the commission of an offence under section 377BB; and
- (c) knows or has reason to believe that *B* does not consent to the distribution.

(3) Subject to subsection (4), a person who is guilty of an offence under subsection (1) or (2) shall on conviction be punished with imprisonment for a term which may extend to 5 years, or with fine, or with caning, or any combination of such punishments.

(4) Where the image or recording in subsection (1) or (2) is of a person below 14 years of age, a person who is guilty of an offence under subsection (1) or (2) shall on conviction be punished with imprisonment for a term which may extend to 5 years, and shall also be liable to fine or to caning.

### **Possession of or gaining access to voyeuristic or intimate image or recording**

**377BD.**—(1) Any person shall be guilty of an offence who has in his possession or has gained access to an image or recording of another person and —

- (a) knows or has reason to believe that the image or recording was obtained through the commission of an offence under section 377BB; or
- (b) knows or has reason to believe that —
  - (i) the image or recording is an intimate image or recording as defined in section 377BE(5);
  - (ii) the possession of or access to the image or recording was without the consent of the person depicted in the image or recording; and
  - (iii) the possession of or access to the image or recording will or is likely to cause humiliation,

alarm or distress to the person depicted in the image or recording.

(2) Subject to subsection (3), a person who is guilty of an offence under this section shall on conviction be punished with imprisonment for a term which may extend to 2 years, or with fine, or with both.

(3) Where the image or recording mentioned in subsection (1)(a) is of a person below 14 years of age, a person who is guilty of an offence under this section shall on conviction be punished with imprisonment for a term which may extend to 2 years, and shall also be liable to fine or to caning.

(4) For the purposes of subsection (1) —

(a) a person has in his possession an image or recording of another person that is in electronic form if he controls access to the electronic image or recording, whether or not he has physical possession of the electronic image or recording; and

(b) the ways in which a person gains access to an image or recording may include —

(i) viewing or displaying it by an electronic medium or any other output of the image by an electronic medium; or

(ii) communicating, sending, supplying or transmitting the image to himself or herself.

### **Distributing or threatening to distribute intimate image or recording**

**377BE.**—(1) Any person (*A*) shall be guilty of an offence who —

(a) intentionally or knowingly distributes an intimate image or recording of another person (*B*);

(b) without *B*'s consent to the distribution; and

(c) knows or has reason to believe that the distribution will or is likely to cause *B* humiliation, alarm or distress.

(2) Any person (*A*) shall be guilty of an offence who —

(a) knowingly threatens the distribution of an intimate image or recording of another person (*B*);

(b) without *B*'s consent to the distribution; and

(c) knows or has reason to believe that the threat will or is likely to cause *B* humiliation, alarm or distress.

(3) Subject to subsection (4), a person who is guilty of an offence under subsection (1) or (2) shall on conviction be punished with imprisonment for a term which may extend to 5 years, or with fine, or with caning, or with any combination of such punishments.

(4) A person who commits an offence under subsection (1) or (2) against a person (*B*) who is below 14 years of age shall on conviction be punished with imprisonment for a term which may extend to 5 years and shall also be liable to fine or to caning.

(5) In this section, “intimate image or recording”, in relation to a person (*B*) —

(a) means an image or recording —

(i) of *B*'s genital or anal region, whether bare or covered by underwear;

(ii) of *B*'s breasts if *B* is female, whether bare or covered by underwear; or

(iii) of *B* doing a private act; and

(b) includes an image or recording, in any form, that has been altered to appear to show any of the things mentioned in paragraph (a) but excludes an image so altered that no reasonable person would believe that it depicts *B*.

*Illustrations*

(a) *A* copies, crops, and pastes an image of *B*'s face onto the image of a body of a person who is engaging in a sexual act. This image has been altered to appear to show that *B* actually engaged in a sexual act. This is an intimate image.

(b) *A* pastes an image of *B*'s face on a cartoon depicting *B* performing a sexual act on *C*. No reasonable person would believe that *B* was performing the sexual act depicted on *C*. This is not an intimate image.

**Sexual exposure**

**377BF.**—(1) Any person (*A*) shall be guilty of an offence who —

(a) for the purpose of obtaining sexual gratification or of causing another person (*B*) humiliation, alarm or distress, intentionally exposes *A*'s genitals;

(b) intends that *B* will see *A*'s genitals; and

(c) does so without *B*'s consent.

(2) Any person (*A*) shall be guilty of an offence who —

(a) for the purpose of obtaining sexual gratification or of causing another person (*B*) humiliation, alarm or distress, intentionally distributes to *B* an image of *A*'s or any other person's genitals;

(b) intends that *B* will see *A*'s or the other person's genitals; and

(c) does so without *B*'s consent.

(3) Subject to subsection (4), a person who is guilty of an offence under subsection (1) or (2) shall on conviction be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

(4) A person who commits an offence under subsection (1) or (2) against a person (*B*) who is below 14 years of age shall on conviction be punished with imprisonment for a term which may extend to 2 years, and shall also be liable to fine or to caning.

**Using or involving child in production of child abuse material**

**377BG.**—(1) Any person shall be guilty of an offence who —

(a) uses a person who is below 16 years of age for the production of material which he knows or has reason to believe is child abuse material; 5

(b) causes or procures a person of that age to be so used; or

(c) having the care or custody of a person of that age, consents to the person being so used. 10

(2) A person who is guilty of an offence under subsection (1) shall on conviction be punished with imprisonment for a term which may extend to 10 years, and shall also be liable to fine or to caning.

(3) For the purposes of subsection (1) — 15

(a) a person may have the care of a person below 16 years of age without necessarily being entitled by law to have the custody of the child;

(b) the ways in which material is produced may include — 20

(i) filming, printing, photographing, recording, drawing or otherwise generating material;

(ii) altering or manipulating material; or

(iii) reproducing or copying material; and

(c) the ways in which a person may be used in the production of material include inviting or encouraging the person to be involved, or offering the person to be involved, in the production of the material. 25

### **Producing child abuse material**

**377BH.**—(1) Any person who intentionally produces child abuse material knowing or having reason to believe that the material is child abuse material shall be guilty of an offence.

5 (2) A person who is guilty of an offence under subsection (1) shall on conviction be punished with imprisonment for a term which may extend to 10 years, and shall also be liable to fine or to caning.

10 (3) For the purposes of subsection (1), the ways in which material is produced may include —

- (a) filming, printing, photographing, recording, writing, drawing or otherwise generating material;
- (b) altering or manipulating material; or
- (c) reproducing or copying material.

### **Distributing or selling child abuse material**

**377BI.**—(1) Any person shall be guilty of an offence who —

- (a) distributes or sells or offers for sale child abuse material or has in the person's possession child abuse material for the purpose of such distribution, sale or offer for sale; and
- (b) knows or has reason to believe that the material is child abuse material.

25 (2) A person who is guilty of an offence under subsection (1) shall on conviction be punished with imprisonment for a term which may extend to 7 years, and shall also be liable to fine or to caning.

### **Advertising or seeking child abuse material**

**377BJ.**—(1) Any person shall be guilty of an offence who —

- (a) for the purposes of distributing or selling or offering for sale any child abuse material advertises the material; and

(b) knows or has reason to believe that the material is child abuse material.

(2) Any person shall be guilty of an offence who —

(a) announces or otherwise makes known by any means any offer or purported offer to acquire, buy or gain access to any child abuse material; and

(b) knows or has reason to believe that the material is child abuse material.

(3) A person who is guilty of an offence under subsection (1) or (2) shall on conviction be punished with imprisonment for a term which may extend to 5 years, and shall also be liable to fine or to caning.

(4) In subsection (1), “advertise”, in relation to child abuse material, includes —

(a) exhibiting, displaying or supplying any advertising material relating to the material;

(b) announcing by any means any offer to sell or distribute the material; or

(c) distributing or circulating any advertisement relating to the material.

### **Possession of or gaining access to child abuse material**

**377BK.**—(1) Any person shall be guilty of an offence who —

(a) has in the person’s possession or has gained access to child abuse material; and

(b) knows or has reason to believe that the material is child abuse material.

(2) A person who is guilty of an offence under subsection (1) shall on conviction be punished with imprisonment for a term which may extend to 5 years, and shall also be liable to fine or to caning.

(3) For the purposes of subsection (1) —

(a) a person has in the person's possession child abuse material that is electronic material if the person controls access to the material whether or not the person has physical possession of the electronic material; and

(b) the ways in which a person gains access to material may include viewing material or displaying material by an electronic medium or any other output of the material by an electronic medium.

*Illustration*

*Y* has an online storage account for electronic material accessible with a username and password. *Y* has control of what is stored in the account and can upload to, copy from or delete material from the account. *Y* has an electronic folder in the account to which *Y* uploads and stores electronic child abuse material. *Y* has in his possession child abuse material.

**Exploitation by abusive material of minor of or above 16 but below 18 years of age**

**377BL.**—(1) This section applies only where a person (*A*) is in a relationship with another person (*B*) who is of or above 16 but below 18 years of age, that is exploitative of *B*.

(2) A person (*A*) who uses, causes or procures *B* for the production of material which *A* knows or has reason to believe is abusive material shall be guilty of an offence and shall on conviction be punished with imprisonment for a term which may extend to 10 years, and shall also be liable to fine or to caning.

(3) A person (*A*) who intentionally produces abusive material of *B* shall be guilty of an offence and shall on conviction be punished with imprisonment for a term which may extend to 10 years, and shall also be liable to fine or to caning.

(4) A person (*A*) who distributes or sells or offers for sale abusive material of *B* or has in *A*'s possession abusive material of *B* for the purpose of such distribution, sale or offer for sale; and knowing or having reason to believe that the material is abusive material of *B* shall be guilty of an offence and shall on

conviction be punished with imprisonment for a term which may extend to 7 years, and shall also be liable to fine or to caning.

(5) For the purposes of this section —

(a) the ways in which material is produced may include — 5

(i) filming, printing, photographing, recording, writing, drawing or otherwise generating material;

(ii) altering or manipulating material; or

(iii) reproducing or copying material; and 10

(b) the ways in which a person may be used in the production of material include inviting or encouraging the person to be involved, or offering the person to be involved, in the production of the material. 15

(6) In this section, “abusive material”, in relation to *B*, means material that depicts —

(a) an image of *B* —

(i) as a victim of torture, cruelty or physical abuse (whether or not the torture, cruelty or abuse is sexual); 20

(ii) as a victim of sexual abuse;

(iii) engaged in, or apparently engaging in, a sexual pose or sexual activity (whether or not in the presence of another person); 25

(iv) in the presence of another person who is engaged in, or apparently engaged in a sexual pose or sexual activity;

(b) the genital or anal region of *B* in circumstances (whether or not apparent from the depiction) which reasonable persons would regard as being offensive; 30  
or

- (c) the breasts of *B* if *B* is female, in circumstances (whether or not apparent from the depiction) which reasonable persons would regard as being offensive.

**Defences to offences relating to intimate image or recording and voyeurism**

**377BM.**—(1) It is a defence to a charge for an offence under section 377BD of having possession of or gained access to an image or a recording obtained through the commission of an offence under section 377BB or an intimate image or recording mentioned in section 377BD(1)(b) for the accused person to prove that the accused person —

- (a) did not intentionally come into possession of or gain access to the image or recording; and
- (b) on becoming aware of having come into possession of or gaining access to the image or recording, as soon as it was practicable to do so, took all reasonable steps in the circumstances to cease possession of or access to the image or recording.

(2) It is a defence to a charge for an offence under section 377BB, 377BC, 377BD or 377BE(1) if —

- (a) the act that is alleged to constitute the offence was done for any of the following purposes without malice and with reasonable cause:
- (i) the prevention, detection, investigation or punishment of any offence;
- (ii) the conduct of contemplated or pending proceedings in any court or tribunal or to obtain evidence for the purpose of contemplating such proceedings;
- (iii) safety or national security; and
- (b) the image or recording (if any) obtained through the commission of an offence under section 377BB or the intimate image or recording (if any) mentioned in section 377BD(1)(b) or 377BE(5) was not kept for a

period longer than what was reasonably necessary or required for the purposes mentioned in paragraph (a).

*Illustrations*

(a) *A*, a caregiver is concerned that *B*, an elderly person has been in the toilet for an unusually long period of time. Despite *A* knocking several times, there is no response from *B*. As *A* is concerned for *B*'s safety, *A* forcefully opens the toilet door to find *B* in a state of undress. *A* has committed no offence as the act was done for the purpose of ensuring *B*'s safety.

5

(b) *A* notices that a stranger is using a mobile phone taking an upskirt photograph of a woman in the mall. *A* confronts the stranger who flees and drops his mobile phone. *A* keeps the mobile phone with the upskirt photograph with the intention of reporting the offence to the police. *A* hands over the phone to the police when he makes the police report. *A* has committed no offence as the act of possession of the upskirt photograph was done for the purpose of assisting the detection or investigation of the offence.

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**Defences to child abuse material offences**

**377BN.**—(1) It is a defence to a charge for an offence of having possession of or gaining access to child abuse material under section 377BK for the accused person to prove that the accused person —

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- (a) did not intentionally come into possession of or gain access to child abuse material; and
- (b) on becoming aware of having come into possession of or gaining access to child abuse material, as soon as it was practicable to do so, took all reasonable steps in the circumstances to cease possession of or access to the material.

25

(2) It is a defence to a charge for an offence under sections 377BH to 377BK if —

- (a) the act that is alleged to constitute the offence was done for any of the following purposes without malice and with reasonable cause:
  - (i) the prevention, detection, investigation or punishment of any offence;
  - (ii) the conduct of contemplated or pending proceedings in any court or tribunal or to

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35

obtain evidence for the purpose of contemplating such proceedings;

(iii) safety or national security; and

(b) the child abuse material or the abusive material, as the case may be, was not kept for a period longer than what was reasonably necessary or required for the purposes mentioned in paragraph (a).

(3) It is a defence to a charge for an offence under sections 377BH to 377BK if the act that is alleged to constitute the offence —

(a) has a legitimate purpose related to science, medicine, education or art; and

(b) did not pose an undue risk of harm to any person below 16 years of age.

*Explanation.*—An act has a legitimate purpose related to art which reasonable persons would regard as art.

#### *Illustrations*

(a) A university researcher has child abuse material in his possession for the purposes of studying the psychological effects of exposure to such material. The researcher's possession of the child abuse material has a legitimate purpose.

(b) A is a photo-journalist in a war zone. A takes a photo of a child victim of torture and submits this together with an article on the plight of such children to a news organisation for publication. The taking and sending of the photo has a legitimate purpose.

(4) It is a defence to a charge for an offence under sections 377BH to 377BK if —

(a) the accused person (A) is below 16 years of age; and

(b) the child abuse material that is alleged to constitute the offence is an image of A alone.

#### *Illustration*

A is 15 years old and takes a photo of herself alone posing in the nude. A stores the photo in her mobile phone. A has not committed the offence of producing or possessing child abuse material.

(5) To avoid doubt, it is not a defence to a charge for an offence relating to child abuse material under sections 377BG to 377BL that, at the time of the conduct constituting the offence, the accused was under a mistaken but honest and reasonable belief that reasonable persons would not regard the child abuse material as being, in the circumstances, offensive. 5

(6) It is a defence to a charge for the following offences in circumstances where the offender (*A*) and the person below 16 years of age (*B*) are married and subject to the following respective conditions: 10

(a) an offence under section 377BG(1) or 377BH(1) if the child abuse material —

(i) involves only *A* and *B* in its production;

(ii) depicts *B* only, *A* and *B* only, or *A* only if *A* is below 16 years of age; and 15

(iii) was produced with *B*'s consent;

(b) an offence under section 377BI if the distribution of the child abuse material —

(i) occurs between *A* and *B* only;

(ii) involves material depicting *B* only, *A* and *B* only, or *A* only if *A* is below 16 years of age; and 20

(iii) was distributed with *B*'s consent;

(c) an offence under section 377BJ(2) if the offer to acquire, buy, or gain access to the child abuse material — 25

(i) occurs between *A* and *B* only; and

(ii) involves material depicting *B* only, *A* and *B* only, or *A* only if *A* is below 16 years of age;

(d) an offence under section 377BK(1) if the possession of the child abuse material was with *B*'s consent and the material depicts *B* only, *A* and *B* only, or *A* only if *A* is below 16 years of age.”. 30

**Repeal and re-enactment of section 377C and new sections 377CA and 377CB**

121. Section 377C of the Penal Code is repealed and the following sections substituted therefor:

5           **“Interpretation of sections 375 to 377BN (sexual offences)**

**377C.—(1)** In sections 375 to 377BN —

“child abuse material” means material that depicts an image of any of the following:

- 10           (a) a person who is, or who appears to a reasonable observer to be, or who is implied to be, below 16 years of age —
- (i) as a victim of torture, cruelty or physical abuse (whether or not the torture, cruelty or abuse is sexual);
- 15           (ii) as a victim of sexual abuse;
- (iii) engaged in, or apparently engaging in, a sexual pose or sexual activity (whether or not in the presence of another person); or
- 20           (iv) in the presence of another person who is engaged in, or apparently engaged in a sexual pose or sexual activity;
- (b) the genital or anal region of a person who is, or who appears to a reasonable observer to be, or who is implied to be, a person below 16 years of age in circumstances (whether or not apparent from the depiction) which reasonable persons would regard as being offensive;
- 25           (c) the breasts of a person who is, or who appears to a reasonable observer to be, or who is implied to be, a female below 16 years of age in circumstances (whether or not apparent from the depiction) which reasonable persons would regard as being offensive;
- 30

“distribute” includes any of the following conduct, whether done in person, electronically, digitally or in any other way:

- (a) send, publish, supply, show, exhibit, transmit or communicate to another person;
- (b) make available for viewing or access by another person;

5

“image” means a still, moving, recorded or unrecorded image and includes an image produced by any means and, where the context requires, a three-dimensional image;

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“image”, in relation to a person, means an image of a human being that is not fictional or imaginary but includes an image that so closely resembles that of a human being as to make it difficult for an ordinary person to distinguish it from an image of a human being that is not fictional or imaginary;

15

“material” means —

- (a) any film, photograph, printed matter or computer game depicting an image;
- (b) any electronic record depicting an image; or
- (c) any other thing of any kind depicting an image;

20

“structure” includes a tent, vehicle or vessel or other temporary or movable structure;

“touching” includes touching —

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- (a) with any part of the body;
- (b) with anything else; or
- (c) through anything,

and includes penetration of the vagina or anus, as the case may be, with a part of the body or anything else and penetration of the mouth with the penis;

30

“vagina” includes vulva.

(2) For the purposes of the definition of “distribute” in subsection (1), a person is treated as having distributed an image or recording whether or not another person views or gains access to the image.

5 (3) In sections 375 to 377BN —

(a) penetration is a continuing act from entry to withdrawal;

10 (b) a reference to a part of the body includes a reference to a part which is surgically constructed (in particular, through a sex reassignment procedure);

(c) for the purposes of identifying the sex of a person —

15 (i) the sex of a person as stated in that person’s identity card issued under the National Registration Act (Cap. 201) at the time the sexual activity took place is prima facie evidence of the sex of that person; and

(ii) a person who has undergone a sex reassignment procedure is identified as being of the sex to which that person has been reassigned;

20 (d) penetration, touching, communication or other activity is “sexual” if —

(i) because of its nature it is sexual, whatever its circumstances or any person’s purpose in relation to it may be; or

25 (ii) because of its nature it may be sexual and because of its circumstances or the purpose of any person in relation to it (or both) it is sexual;

(e) references to observation (however expressed) are to observation whether direct or by looking at an image;

30 (f) a person is doing a private act if under circumstances in which the person has a reasonable expectation of privacy, the person —

- (i) is in a state where the person's genitals, buttocks or breasts (if the person is a female) are exposed or covered only in underwear;
- (ii) is using a toilet, showering or bathing; or
- (iii) is doing a sexual act that is not of a kind ordinarily done in public. 5

*Illustration*

*A* is showering in an open-concept shower cubicle at the changing room of a swimming pool and cannot reasonably expect not to be casually observed. However, *A* has a reasonable expectation that *A* will not be surreptitiously recorded by a video camera. 10

**Meaning of exploitative relationship**

**377CA.**—(1) For the purposes of sections 375, 376, 376A, 376AA, 376EA, 376EC, 376EE, 377BL and 377D, whether an accused person's relationship with a person below 18 years of age (called in this section a minor) is exploitative of the minor is to be determined by the court in the circumstances of each case and the court must have regard to the following in making such determination: 15

- (a) the age of the minor; 20
- (b) the difference between the age of the accused person and the minor;
- (c) the nature of the relationship;
- (d) the degree of control or influence exercised by the accused person over the minor. 25

(2) For the purposes of subsection (1) and subject to subsection (3), it is presumed until the contrary is proved that an accused person's relationship with a minor is exploitative where the relationship is any of the following:

- (a) the accused person is the parent, step-parent, guardian or foster parent of the minor; 30
- (b) the accused person is the de facto partner of the parent, guardian or foster parent of the minor;

- (c) the accused person is a member of the teaching or management staff of the school or educational institution at which the minor is a student;
- 5 (d) the accused person has an established personal relationship with the minor in connection with the provision of religious, sporting, musical or other instruction to the minor;
- (e) the accused person is a custodial officer of an institution in which the minor is detained;
- 10 (f) the accused person is a registered medical practitioner, a registered traditional Chinese medicine practitioner or a psychologist and the minor is a patient of the accused person;
- 15 (g) the accused person is an advocate and solicitor or a counsellor and the minor is a client of the accused person.

(3) The presumption in subsection (2) does not apply to a person who is lawfully married to a minor even though the relationship may fall within any of the relationships mentioned in subsection (2).

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### **Consent given under misconception in sexual offences**

**377CB.**—(1) Despite section 90(a)(ii), a consent for the purposes of an act which is the physical element of a sexual offence is not a consent given by a person under a misconception of fact only if it is directly related to —

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- (a) the nature of the act, namely that it is not of a sexual nature;
- (b) the purpose of the act, namely that it is not for a sexual purpose; or
- 30 (c) the identity of the person doing the act,

and the person doing the act knows, or has reason to believe, that the consent was given in consequence of such misconception.

(2) In subsection (1) —

“sexual” has the meaning given by section 377C(3);

“sexual offence” means any offence where the physical element of the offence under this Code or any other written law involves an act of a sexual nature and includes but is not limited to any offence under sections 375 to 377BN.

*Illustrations*

(a) *A* deceives *B* into allowing him to penetrate her vagina by inducing the misconception that he is extracting an evil spirit from *B*’s body. *B* believes *A* and thinks that what she has consented to is a procedure to extract an evil spirit, not sexual intercourse. *B* has given her consent under a misconception as to the sexual nature of the act. *B*’s apparent consent is therefore not a valid consent.

(b) *A* deceives *B* into believing that he can heal *B*’s chronic disease by treatment involving sexual penetration. *B* gives her consent under the misconception that the act is treatment for a health purpose and not for a sexual purpose. *B*’s apparent consent is therefore not a valid consent.

(c) *A* deceives *B* into believing that *A* is her husband. *A* is an imposter. *B* consents to sexual intercourse with *A* because she believes *A* is her husband. *B*’s consent is given under a misconception of the identity of *A* and is therefore not a valid consent.

(d) *A* deceives *B* into believing that *A* is an influential movie director. *A* is in fact only an administrative assistant to that movie director. *B* consents to sexual intercourse with *A* because she believes *A* is that movie director. *B*’s misconception is as to *A*’s attributes and not of *A*’s identity. *B*’s consent is therefore a valid consent.”.

## **Repeal and re-enactment of section 377D**

**122.** Section 377D of the Penal Code is repealed and the following section and *Explanation* substituted therefor:

### **“Mistake as to age in sexual offences**

**377D.**—(1) Subject to subsections (2) and (3) and despite section 79, a reasonable mistake as to the age of a person cannot be a defence to any charge for a sexual offence.

(2) The presence of a reasonable mistaken belief that a minor was of or above 18 years of age is a valid defence to a charge for a sexual offence where the fact that a minor is of or above the age

of 16 years but below 18 years is a physical element of the offence.

(3) For the purposes of subsection (2), the defence under that subsection is no longer available if at the time of the offence, the person charged with that offence —

(a) has previously been charged in court for an offence under section 375(1)(a), 375(1A)(b), 376(1), 376(2), 376A, 376AA, 376B, 376C, 376E, 376EA, 376EB, 376EC, 376ED, 376EE, 377BG, 377BH, 377BI, 377BJ, 377BK or 377BL or section 7 of the Children and Young Persons Act or section 140(1)(i) or 145(1) of the Women’s Charter; or

(b) failed to take all reasonable steps to verify that the minor was of or above 18 years of age.

*Explanation.*—The fact that the minor was observed to be participating in activities which are restricted to persons of or above 18 years of age, such as smoking a cigarette or admission to premises with access restricted to persons of or above 18 years of age (such as a nightclub) is neither sufficient to constitute a reasonable basis for the mistaken belief nor reasonable steps to verify that minor’s age.

(4) In this section, “sexual offence” has the meaning given by section 377CB.”.

### **Amendment of section 378**

**123.** Section 378 of the Penal Code is amended —

(a) by inserting, immediately after *Explanation 5*, the following *Explanation*:

“*Explanation 6.*—A person may move property which is intangible or incorporeal by transferring the property from one account to another account or transferring the interests in the property from one person to another person or by extinguishing the property.”; and

(b) by inserting, immediately after *illustration (p)*, the following *illustration*:

“(q) A gains access to Z’s bank account and dishonestly transfers money from Z’s account to A’s own account without Z’s knowledge or consent. A commits theft.”.

### **Amendment of section 401**

**124.** Section 401 of the Penal Code is amended —

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(a) by deleting the words “wandering or other”; and

(b) by deleting the word “wandering” in the section heading.

### **Amendment of section 403**

**125.** Section 403 of the Penal Code is amended by inserting, immediately after *illustration (f) of Explanation 2*, the following *illustration*:

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“(g) A receives money transferred to his bank account from Z’s bank account. A discovers that Z did not intend to transfer the money to him. A retains the money and appropriates it to his own use. A is guilty of an offence under this section.”.

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### **Amendment of section 405**

**126.** Section 405 of the Penal Code is amended by deleting the word “wilfully” and substituting the word “intentionally”.

### **Repeal and re-enactment of section 407**

**127.** Section 407 of the Penal Code is repealed and the following section substituted therefor:

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#### **“Criminal breach of trust of property entrusted for purposes of transportation or storage**

**407.** Whoever, being entrusted with property for the purpose of transportation for hire or storage for rent or charge, commits criminal breach of trust in respect of such property, shall be punished with imprisonment for a term which may extend to 15 years, and shall also be liable to fine.

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#### *Illustration*

A carrier is an example of a person who is entrusted with property for the purpose of transportation for hire and a warehouse owner or warehouse operator is an example of a person who is entrusted with property for the purpose of storage for rent or charge.”.

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## Repeal and re-enactment of sections 408 and 409

128. Sections 408 and 409 of the Penal Code are repealed and the following sections substituted therefor:

### “Criminal breach of trust by employees

5       **408.**—(1) Whoever, being an employee, and being in any manner entrusted in such capacity with property, or with any dominion over property, commits criminal breach of trust in respect of that property, shall be punished with imprisonment for a term which may extend to 15 years, and shall also be liable to fine.

(2) For the purposes of subsection (1) —

(a) an employee includes a person who is engaged in a capacity with the same fundamental qualities as an employee; and

15       (b) a person may be an employee or engaged in the capacity mentioned in paragraph (a) even though that person does not receive any salary or other remuneration arising from the person’s employment or engagement.

### **Criminal breach of trust by public servant, or by banker, merchant, agent, director, officer, partner, key executive or fiduciary**

20       **409.**—(1) Whoever, being in any manner entrusted with property, or with any dominion over property —

25       (a) in his capacity as a public servant;

(b) in the way of his trade, profession or business as a banker, a merchant, a factor, a broker, an attorney or an agent;

30       (c) in his professional capacity (other than by way of a trade, profession or business mentioned in paragraph (b));

(d) in his capacity as a director of a corporation;

(e) in his capacity as an officer of an unincorporated association;

(f) in his capacity as a partner in a partnership;

(g) in his capacity as a key executive of a corporation, an unincorporated association or a partnership; or

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(h) in his capacity as a fiduciary,

commits criminal breach of trust in respect of that property, shall be punished with imprisonment for a term which may extend to 20 years, and shall also be liable to fine.

(2) In this section —

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“director” includes —

(a) any person occupying the position of director of a corporation by whatever name called, and includes a person in accordance with whose directions or instructions the directors or the majority of the directors of a corporation are accustomed to act, and an alternate or substitute director; or

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(b) a member of a corporation in the case where the affairs of the corporation are managed by its members, and includes a person in accordance with whose directions or instructions the members or the majority of the members of such corporation are accustomed to act, and an alternate or substitute member;

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25

“fiduciary” means a person who has undertaken to act for or on behalf of another person in a matter in circumstances which give rise to a relationship of trust, confidence and loyalty, and includes but is not limited to an executor, an administrator, a liquidator, a receiver and a trustee (other than the trustee of an implied, a constructive or a resulting trust);

30

“key executive” means a person who, whether or not an employee of the corporation, unincorporated association or partnership, and whether acting alone or together with any other person, has general control and management of the administration of that corporation, unincorporated association or partnership;

“officer”, in relation to an unincorporated association (other than a partnership), means the president, the secretary or any member of the committee of the unincorporated association, and includes —

(a) any person holding a position analogous to that of president, secretary or member of a committee of the unincorporated association;

(b) a person in accordance with whose directions or instructions the president, secretary or member of a committee of the unincorporated association or a majority of such persons are accustomed to act; and

(c) any person purporting to act in any such capacity;

“partner” includes a person purporting to act as a partner;

“partnership” includes a limited partnership and a limited liability partnership within the meaning of section 2(1) of the Limited Liability Partnerships Act (Cap. 163A).

(3) For the purposes of this section and to avoid doubt —

(a) a person may be a director of a corporation, officer of an unincorporated association, partner in a partnership, key executive of a corporation, unincorporated association or partnership even though that person does not receive any salary or other remuneration from that corporation, unincorporated association or partnership, as the case may be; and

- (b) a person may be a fiduciary even though it is stated in a contract or an agreement between the parties that a fiduciary relationship does not arise.”.

### **Amendment of section 410**

**129.** Section 410 of the Penal Code is amended by inserting, immediately after subsection (2), the following *Explanation*:

“*Explanation.*—For the purpose of proving whether the whole or any part of any property constitutes “stolen property”, it is not necessary for the prosecution to prove the elements or particulars of any offence that caused or contributed to the designation of the property as stolen property.”.

### **Amendment of section 411**

**130.** Section 411 of the Penal Code is amended —

- (a) by deleting subsection (1) and substituting the following subsection:

“(1) Whoever receives or retains any property, knowing or having reason to believe the property to be stolen property or property obtained in whole or in part through an offence involving fraud or dishonesty, shall be punished with imprisonment for a term which may extend to 5 years, or with fine, or with both.”;

- (b) by inserting, immediately after subsection (2), the following subsection and *Illustration*:

“(3) It is a defence for a person charged with an offence under subsection (1) to prove that he has a reasonable excuse to receive or retain the property and that he exercised reasonable care as soon as practicable after having the knowledge or reason to believe mentioned in that subsection.

#### *Illustration*

A large sum of money is credited into A’s bank account through a fund transfer. A later discovers the funds on checking his bank statement and has reason to believe that the funds were obtained in whole or in part through a criminal offence involving fraud or dishonesty. As soon as practicable after this discovery, A makes a report of the funds to the bank management and expresses

his belief of the origins of the funds. *A* has a reasonable excuse for receiving and retaining the funds in his bank account while the report is being processed and has exercised reasonable care.”; and

- 5 (c) by deleting the words “Dishonestly receiving” in the section heading and substituting the word “Receiving”.

### **Amendment of section 412**

**131.** Section 412 of the Penal Code is amended —

- (a) by deleting the word “dishonestly” wherever it appears;
- 10 (b) by deleting the words “imprisonment for life, or with imprisonment for a term which may extend to 10 years” and substituting the words “imprisonment for a term which may extend to 20 years”;
- (c) by renumbering the section as subsection (1) of that section, and by inserting immediately thereafter the
- 15 following subsection and *Illustration*:

“**(2)** It is a defence for a person charged with an offence under subsection (1) to prove that he has a reasonable excuse to receive or retain the property and that he exercised reasonable care as soon as practicable after having the knowledge or reason to believe mentioned in that subsection.

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#### *Illustration*

25 A box of valuable jewels is delivered by courier to *A*’s office. *A* later discovers the jewels and learns from the news reports that there was a gang robbery of jewels in the vicinity. *A* has reason to believe that the jewels were stolen in the gang robbery. As soon as practicable after this discovery, *A* keeps the jewels in the safe and travels to the police station to make a report of the jewels and express his belief that the jewels were stolen by gang-robbers. *A* has a reasonable excuse for receiving and retaining the jewels pending their retrieval by the police and has exercised reasonable care.”; and

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- (d) by deleting the words “Dishonestly receiving” in the section heading and substituting the word “Receiving”.

### Amendment of section 413

**132.** Section 413 of the Penal Code is amended by inserting, immediately after the words “stolen property”, the words “or property obtained in whole or in part through any criminal offence involving fraud or dishonesty,”.

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### Amendment of section 414

**133.** Section 414 of the Penal Code is amended —

- (a) by inserting, immediately after the words “stolen property” in subsection (1), the words “or property obtained in whole or in part through any criminal offence involving fraud or dishonesty,”; and
- (b) by deleting the words “stolen property” in subsection (2) and substituting the words “property mentioned in subsection (1)”.

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### Amendment of section 415

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**134.** Section 415 of the Penal Code is amended —

- (a) by inserting, immediately after the words “to deliver”, the words “or cause the delivery of”;
- (b) by inserting, immediately after *Explanation 3*, the following *Explanations*:

20

*Explanation 4.*—A person that is a company or association or body of persons, whether incorporated or not, can be deceived for the purposes of this section, even though none of its individual officers, employees or agents is personally deceived.

*Explanation 5.*—A person that is a company or association or body of persons, whether incorporated or not, can be induced to act in a manner mentioned in this section even though none of its individual officers, employees or agents is personally induced to act in such manner.”; and

25

- (c) by inserting, immediately after *illustration (j)*, the following *illustration*:

30

“(k) *A* places an order for concert tickets in the automated concert ticketing system of a company, *Z*, using stolen credit card details, and thereby causes *Z*’s ticketing system to electronically deliver the electronic concert tickets to *A*. *Z* has been deceived and

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induced into delivering the tickets to *A* even though no human officer, employee or agent of *Z* has been personally deceived or induced.”.

### **New section 416A**

5     **135.** The Penal Code is amended by inserting, immediately after section 416, the following section:

#### **“Illegally obtained personal information**

10     **416A.—**(1) A person (*A*) shall be guilty of an offence who, knowing or having reason to believe that any personal information about another person (*B*) (being an individual) was obtained without *B*’s consent —

(a) obtains or retains the personal information; or

(b) supplies, offers to supply, transmits or makes available, by any means, the personal information.

15     (2) It is not an offence under subsection (1)(a) if the person obtained or retained the personal information for a purpose other than —

20     (a) for use in committing, or in facilitating the commission of, any offence under this Code or any other written law; or

(b) for supply, transmission or making available by any means for the personal information to be used in committing, or in facilitating the commission of, any offence under this Code or any other written law.

25     (3) It is not an offence under subsection (1)(b) if —

(a) the person did the act for a purpose other than for the personal information to be used in committing, or in facilitating the commission of, any offence under this Code or any other written law; and

30     (b) the person did not know or have reason to believe that the personal information will be or is likely to be used to commit, or facilitate the commission of, any offence under this Code or any other written law.

(4) For the purposes of subsection (1)(b), a person does not transmit or make available personal information merely because the person provides, or operates facilities for network access, or provides services relating to, or provides connections for, the transmission or routing of data. 5

(5) A person who is guilty of an offence under subsection (1) shall on conviction be punished with imprisonment for a term which may extend to 3 years, or with fine which may extend to \$10,000, or with both.

(6) For the purpose of proving under subsection (1) that a person knows or has reason to believe that any personal information of an individual (*B*) was obtained without *B*'s consent, it is not necessary for the prosecution to prove the particulars of the obtaining of the personal information, such as who obtained the information and when it took place. 10 15

(7) In this section —

(a) personal information is any information, whether true or not, about an individual of a type that is commonly used alone or in combination with other information to identify or purport to identify an individual, including (but not limited to) biometric data, name, address, date of birth, national registration identity card number, passport number, a written, electronic or digital signature, user authentication code, credit card or debit card number, and password; and 20 25

(b) a reference to an offence under this Code includes an offence under subsection (1).”.

### **Amendment of section 420**

**136.** Section 420 of the Penal Code is amended by inserting, immediately after the words “to deliver”, the words “or cause the delivery of”. 30

### **New section 420A**

**137.** The Penal Code is amended by inserting, immediately after section 420, the following section:

**“Obtaining services dishonestly or fraudulently**

**420A.**—(1) A person shall be guilty of an offence if he obtains services for himself or another person dishonestly or fraudulently and —

5           (a) the services are made available on the basis that payment has been, is being or will be made for or in respect of them;

10           (b) the person obtains the services without any payment having been made for or in respect of them or without payment having been made in full; and

              (c) when the person obtains the services —

                  (i) the person knows that they are being made available on the basis mentioned in paragraph (a) or that they might be; and

15           (ii) the person intends that payment will not be made or will not be made in full.

(2) A person who is guilty of an offence under subsection (1) shall on conviction be liable to imprisonment for a term not exceeding 10 years, or to fine, or to both.

20           *Explanation.*—The services obtained are not excluded from this section merely because such services also involve the provision of goods or other things.

*Illustration*

25           *A obtains services in the form of air transportation on an airline from Singapore to an overseas destination. A is also served food and beverages on the airline. A has obtained services even though A has also been provided with food and beverages.”.*

**New section 424A**

30           **138.** The Penal Code is amended by inserting, immediately after section 424, the following section:

**“Fraud by false representation, non-disclosure or abuse of position not connected with contracts for goods or services**

**424A.**—(1) A person shall be guilty of an offence if he, fraudulently or dishonestly —

- (a) makes a false representation;
- (b) fails to disclose to another person information which he is under a legal duty to disclose; or
- (c) abuses, whether by act or omission, a position which he occupies in which he is expected to safeguard, or not to act against, the financial interests of another person.

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(2) A person may be guilty of an offence under subsection (1) whether or not the acts in subsection (1)(a), (b) or (c) were material.

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(3) A person who is guilty of an offence under subsection (1) shall on conviction be punished with imprisonment for a term which may extend to 20 years, or with fine, or with both.

(4) This section does not apply where the false representation, failure to disclose or abuse of position mentioned in subsection (1) is directly connected with a written or oral contract for the supply of goods or services.

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(5) For the purposes of this section —

- (a) “representation” means any representation as to fact or law, including a representation as to the state of mind of the person making the representation, or any other person;
- (b) a person makes a false representation if it is untrue or misleading, and that person knows that it is, or might be, untrue or misleading;
- (c) a representation may be express or implied; and
- (d) a representation may be regarded as made if it (or anything implying it) is submitted in any form to any system or device designed to receive, convey or respond to communications (with or without human intervention).”.

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### **New section 424B**

**139.** The Penal Code is amended by inserting, immediately after section 424A, the following section:

5       **“Fraud by false representation, non-disclosure or abuse of position**

**424B.—**(1) A person shall be guilty of an offence if he, fraudulently or dishonestly —

(a) makes a false representation;

10       (b) fails to disclose to another person information which he is under a legal duty to disclose; or

(c) abuses, whether by act or omission, a position which he occupies in which he is expected to safeguard, or not to act against, the financial interests of another person.

15       (2) A person may be guilty of an offence under subsection (1) whether or not the acts in subsection (1)(a), (b) or (c) were material.

20       (3) A person who is guilty of an offence under subsection (1) shall on conviction be punished with imprisonment for a term which may extend to 20 years, or with fine, or with both.

(4) This section does not apply to any act mentioned in subsection (1) which would constitute an offence under section 424A.”.

### **Amendment of section 426**

25       **140.** Section 426 of the Penal Code is amended by deleting the words “one year” and substituting the words “2 years”.

### **Repeal and re-enactment of section 427**

**141.** Section 427 of the Penal Code is repealed and the following section substituted therefor:

**“Punishment for committing mischief causing disruption to key service, etc.**

**427.—(1)** Whoever commits mischief by doing any act which causes, or which he knows is likely to cause, a disruption to —

- (a) the provision of any key service; or 5
- (b) the performance of any duty or function of, or the exercise of any power by the Government or a public agency,

shall be punished with imprisonment for a term which may extend to 10 years, or with fine, or with both. 10

(2) In subsection (1) —

“key service” means any of the following services:

- (a) a service directly related to the provision to the general public of water, sewerage, drainage, gas, electricity, waste collection and disposal, newspapers, broadcasting, telecommunications and other traditional forms of mass media communication (including radio and television services); 15
- (b) a search and rescue service, a fire-fighting service, a service providing rapid response to requests for help in a medical emergency, or other health emergency service; 20
- (c) a payments clearing and settlement service for payment obligations or securities, a service directly related to the provision to the general public of banking facilities and financial services associated with banking business, a securities trading, clearing and settlement service, and any other like service that is necessary to the financial market or financial institutions in Singapore or the disruption of which would have a widespread adverse effect 25  
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on the financial system in Singapore or the economy of Singapore, or both;

(d) a service directly related to the provision to the general public of health or healthcare services at a hospital, primary care healthcare establishment or other like institution;

(e) a service that is critical to ensuring the reliable supply in Singapore of food which is safe and suitable for human consumption;

(f) a service directly related to ensuring the provision to the general public of reliable and safe public transport by land, water or air within Singapore or to and from Singapore;

(g) any other service that is critical to maintaining public health, the social and economic stability of Singapore or its people, or the defence of Singapore or its national security;

“public agency” means —

(a) a body corporate or unincorporate established by or under any public Act to perform or discharge a public function, or any part of such a body; or

(b) a department or Ministry of the Government or an Organ of State.

*Illustrations*

(a) An act which causes damage to enforcement cameras installed in a public place by a statutory board responsible for land transport to detect illegal parking in a public road is an act which causes disruption to the performance of the function of that statutory board.

(b) Unauthorised destruction of the records and files of a department of the Government which role is to promote Singapore as a sound and reputable financial centre is an act which causes disruption to the performance of the function of that department.

(c) An act of mischief which damages an electricity licensee’s power generation facility that is used to supply electricity to a public housing estate, is

an act which is likely to cause disruption to a key service even though there is no actual disruption to that power supply.”.

### **Repeal of sections 430 to 434**

**142.** Sections 430 to 434 of the Penal Code are repealed.

### **Amendment of section 438**

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**143.** Section 438 of the Penal Code is amended by inserting, immediately after the words “and shall”, the words “, if he is not sentenced to imprisonment for life,”.

### **Amendment of section 442**

**144.** Section 442 of the Penal Code is amended —

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- (a) by inserting, immediately after the word “tent”, the word “, container”;
- (b) by deleting the word “house-trespass” and substituting the word “house-breaking”;
- (c) by deleting the word “house-trespass” in the *Explanation* and substituting the word “house-breaking”; and
- (d) by deleting the section heading and substituting the following section heading:

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**“House-breaking”.**

### **Repeal of sections 443 to 446**

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**145.** Sections 443 to 446 of the Penal Code are repealed.

### **Repeal and re-enactment of section 448**

**146.** Section 448 of the Penal Code is repealed and the following section substituted therefor:

#### **“Punishment for house-breaking**

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**448.** Whoever commits house-breaking shall be guilty of an offence and shall be punished with imprisonment for a term which may extend to 3 years, or with fine, or with both.”.

**Amendment of section 449**

147. Section 449 of the Penal Code is amended —

- (a) by deleting the word “house-trespass” and substituting the word “house-breaking”;
- 5 (b) by deleting the words “10 years, and shall” and substituting the words “15 years, and shall, if he is not sentenced to imprisonment for life,”; and
- (c) by deleting the word “House-trespass” in the section heading and substituting the word “House-breaking”.

10 **Amendment of section 450**

148. Section 450 of the Penal Code is amended —

- (a) by deleting the word “house-trespass” and substituting the word “house-breaking”;
- 15 (b) by deleting the words “10 years” and substituting the words “15 years”; and
- (c) by deleting the word “House-trespass” in the section heading and substituting the word “House-breaking”.

**Amendment of section 451**

149. Section 451 of the Penal Code is amended —

- 20 (a) by deleting the word “house-trespass” and substituting the word “house-breaking”;
- (b) by deleting the words “2 years” and substituting the words “10 years”;
- (c) by deleting the words “; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to 7 years”; and
- 25 (d) by deleting the word “House-trespass” in the section heading and substituting the word “House-breaking”.

### **Amendment of section 452**

**150.** Section 452 of the Penal Code is amended —

- (a) by deleting the word “house-trespass” and substituting the word “house-breaking”;
- (b) by deleting the words “7 years, and shall also be liable to fine” and substituting the words “10 years, and shall also be liable to fine, or to caning”; and
- (c) by deleting the word “House-trespass” in the section heading and substituting the word “House-breaking”.

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### **Repeal and re-enactment of section 453**

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**151.** Section 453 of the Penal Code is repealed and the following section substituted therefor:

**“Possession of house-breaking implements or offensive weapons**

**453.**—(1) Any person who is found —

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- (a) armed with any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, without lawful authority or a lawful purpose;
- (b) having his face covered or otherwise found disguised with intent to commit any offence; or
- (c) equipped with any article or instrument for use in the course of or in connection with any house-breaking,

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shall be guilty of an offence and shall on conviction be punished with imprisonment for a term which may extend to 2 years, or with fine, or with both; and any instrument or article, mentioned in paragraph (a) or (c), found in the possession of that person shall be forfeited.

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(2) In any prosecution for an offence under subsection (1)(a), it is sufficient for the prosecution to allege and prove that the accused was found to be armed with any instrument mentioned

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in paragraph (a) and the burden is then on the accused to show that he had lawful authority or a lawful purpose to be so armed.

(3) An article or instrument is presumed to be carried with lawful authority if it is carried by —

- 5           (a) any member of the Singapore Armed Forces, the Singapore Police Force, the Singapore Civil Defence Force or any auxiliary police force created under any written law;
- 10           (b) a forensic specialist, civilian police assistant or law enforcement officer acting in the course of his duty as such in accordance with the Police Force Act (Cap. 235);
- (c) any visiting force lawfully present in Singapore under the provisions of any law relating to visiting forces; or
- 15           (d) any person as part of his official or ceremonial dress on any official or ceremonial occasion.”.

### **Repeal of sections 454 to 458**

**152.** Sections 454 to 458 of the Penal Code are repealed.

### **Amendment of section 458A**

20   **153.** Section 458A of the Penal Code is amended —

- (a) by deleting the words “section 454, 455, 457 or 458” and substituting the words “section 449, 450, 451 or 452”;
- (b) by deleting the words “section 454 or 457 shall be punished with” and substituting the words “section 449, 450, 451 or 452 shall be liable to”; and
- 25           (c) by deleting the words “section 454 or 457” in the section heading and substituting the words “section 449, 450, 451 or 452”.

### **Amendment of section 459**

30   **154.** Section 459 of the Penal Code is amended by deleting the words “lurking house-trespass or” (including in the section heading).

### **Amendment of section 460**

**155.** Section 460 of the Penal Code is amended —

- (a) by deleting the words “lurking house-trespass by night or house-breaking by night” wherever they appear and substituting in each case the word “house-breaking”; and
- (b) by deleting the section heading and substituting the following section heading:

**“House-breaking when death or grievous hurt caused”.**

### **Amendment of heading to Chapter XVIII**

**156.** Chapter XVIII of the Penal Code is amended by deleting the words “CURRENCY NOTES” in the Chapter heading and substituting the word “CURRENCY”.

### **Amendment of section 477A**

**157.** Section 477A of the Penal Code is amended —

- (a) by deleting the word “wilfully” wherever it appears and substituting in each case the word “intentionally”;
- (b) by inserting, immediately after the words “valuable security or account” wherever they appear, the words “or a set thereof”; and
- (c) by renumbering the existing *Explanation* as *Explanation 1*, and by inserting immediately thereafter the following *Explanation*:

*“Explanation 2.—Any books, electronic records, papers, writings, valuable securities or account or any combination thereof form a set if they serve the same function or purpose in relation to the employer’s affairs or business.”.*

### **Amendment of sub-heading to Chapter XVIII**

**158.** Chapter XVIII of the Penal Code is amended by deleting the words “*Currency Notes*” in the sub-heading immediately above section 489A and substituting the word “*Currency*”.

## Repeal and re-enactment of section 489A

159. Section 489A of the Penal Code is repealed and the following section substituted therefor:

### “Forging or counterfeiting currency or bank notes

5       **489A.**—(1) Whoever forges or counterfeits, or knowingly performs any part of the process of forging or counterfeiting, any currency or bank note shall be guilty of an offence and shall on conviction be punished with imprisonment for a term which may extend to 20 years, and shall also be liable to fine.

10       (2) In this section and sections 489B to 489I —

      “bank note” means a promissory note or engagement for the payment of money to bearer on demand issued by any person carrying on the business of banking in any part of the world, or issued by or under the authority of the government of any country or territory and intended to be used as equivalent to, or as a substitute for, money;

15       “coin” is metal used as money stamped and issued by or under the authority of the government of any country or territory in order to be so used;

20       “currency” includes any currency note or coin (by whatever name called) which is legal tender in the country or territory in which it is issued.”

## Amendment of section 489B

160. Section 489B of the Penal Code is amended —

25       (a) by inserting, immediately after the word “Whoever”, the words “delivers or”;

      (b) by inserting, immediately after the words “or otherwise”, the words “imports, exports or”;

30       (c) by deleting the words “currency note” and substituting the word “currency”;

- (d) by inserting, immediately after the words “shall be”, the words “guilty of an offence and shall on conviction be”; and
- (e) by deleting the words “currency notes” in the section heading and substituting the word “currency”. 5

### **Amendment of section 489C**

**161.** Section 489C of the Penal Code is amended —

- (a) by deleting the words “currency note” and substituting the word “currency”;
- (b) by inserting, immediately after the words “15 years”, the words “and shall also be liable to fine”; and 10
- (c) by deleting the words “currency notes” in the section heading and substituting the word “currency”.

### **Amendment of section 489D**

**162.** Section 489D of the Penal Code is amended — 15

- (a) by inserting, immediately after the words “Whoever makes”, the word “, mends”;
- (b) by deleting the words “process of making, or buys or sells or disposes of” and substituting the words “process of making or mending or buys, sells or disposes of”; 20
- (c) by deleting the words “any machinery” and substituting the words “any die, machinery”;
- (d) by deleting the words “currency note” and substituting the word “currency”; and
- (e) by deleting the words “currency notes” in the section heading and substituting the word “currency”. 25

### **New sections 489E to 489I**

**163.** The Penal Code is amended by inserting, immediately after section 489D, the following sections:

**“Abetting in Singapore counterfeiting of currency out of Singapore**

5       **489E.** Whoever, being within Singapore, abets the counterfeiting of any currency out of Singapore, shall be punished in the same manner as if he abetted the counterfeiting of such currency within Singapore.

**Fraudulently or dishonestly diminishing weight or altering composition of any coin**

10       **489F.** Whoever fraudulently or dishonestly performs on any coin any operation which diminishes the weight or alters the composition of that coin shall be guilty of an offence and shall on conviction be punished with imprisonment for a term which may extend to 7 years, and shall also be liable to fine.

15               *Explanation.*—A person who scoops out part of the coin and puts anything else into the cavity, alters the composition of that coin.

**Altering appearance of currency with intent that it shall pass as currency of different description**

20       **489G.** Whoever performs on any currency any operation which alters the appearance of that currency, with the intention that that currency will pass as currency of a different description, shall be guilty of an offence and shall on conviction be punished with imprisonment for a term which may extend to 7 years, and shall also be liable to fine.

**Delivery to another of altered currency**

25       **489H.** Whoever delivers to any other person as genuine, or as currency of a different description from what it is, or attempts to induce any person to receive as genuine or as a currency of a different description from what it is, any currency in respect of which he knows or has reason to believe that any operation mentioned in section 489F or 489G has been performed, shall be guilty of an offence and shall on conviction be punished with imprisonment for a term which may extend to 10 years, and shall also be liable to fine.

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### **Possession of altered currency**

**489I.** Whoever has in his possession any currency with respect to which he knows or has reason to believe that any offence defined in section 489F or 489G has been committed and intending to use such currency as genuine or that it may be used as genuine shall on conviction be punished with imprisonment for a term which may extend to 5 years, and shall also be liable to fine.”.

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### **Repeal of Chapter XX**

**164.** Chapter XX of the Penal Code is repealed.

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### **Amendment of section 506**

**165.** Section 506 of the Penal Code is amended by deleting the words “or impute unchastity to a woman,”.

### **Repeal of sections 508 and 509**

**166.** Sections 508 and 509 of the Penal Code are repealed.

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### **Repeal and re-enactment of section 511 and new section 512**

**167.** Section 511 of the Penal Code is repealed and the following sections substituted therefor:

#### **“Attempt to commit offence**

**511.—(1)** A person attempts to commit an offence punishable by this Code or by any other written law who, with the intention of committing that offence takes a substantial step towards the commission of that offence.

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(2) For the purposes of subsection (1), an act is a substantial step towards the commission of an offence if it is strongly corroborative of an intention to commit the offence and the following are examples of acts which in the circumstances of each case may constitute taking a substantial step:

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(a) lying in wait, searching for or following the contemplated victim of the offence;

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- (b) enticing or seeking to entice the contemplated victim of the offence to go to the place contemplated for its commission;
- 5 (c) reconnoitring the place contemplated for the commission of the offence;
- (d) unlawful entry of a place in which it is contemplated that the offence will be committed;
- 10 (e) possession of materials to be employed in the commission of the offence, that are specially designed for such unlawful use or that can serve no lawful purpose of the act or under the circumstances;
- 15 (f) possession, collection or fabrication of materials to be employed in the commission of the offence, at or near the place contemplated for its commission, if such possession, collection or fabrication serves no lawful purpose of the act or under the circumstances;
- (g) soliciting an innocent agent to engage in conduct constituting a physical element of the offence.

20 (3) A person may attempt the doing of a thing despite the existence of facts of which he is unaware which make the doing of the thing impossible.

#### *Illustrations*

25 (a) *A* makes an attempt to steal some jewels by breaking open a box, and finds after so opening the box that there is no jewel in it. He has taken a substantial step towards the commission of theft, and therefore is guilty of attempted theft.

30 (b) *A* makes an attempt to pick the pocket of *Z* by thrusting his hand into *Z*'s pocket. *A* fails in the attempt in consequence of *Z*'s having nothing in his pocket. *A* is guilty of attempted theft even though it was not possible for *A* to steal any thing from *Z*'s empty pocket.

35 (c) When *Z* is not looking, *A* opens *Z*'s bag and takes away an electronic device with the intention of stealing it from *Z*. *A* genuinely believes that the electronic device belongs to *Z* but it in fact belongs to *A*, who had previously lent it to *Z*. *A* is guilty of attempted theft even though it was not possible for *A* to have committed theft of *A*'s own device.

(d) *A* and *Z* are friends who share a room in which *Z* keeps a personal safe with a combination lock. *A* peeps at *Z* opening the safe in order to memorise the combination code to the safe. When *Z* is out of the room, *A* attempts to remember the code to unlock *Z*'s safe with the intention of stealing the cash in the safe. *A* tries several times but is unable to remember the code correctly before *Z* returns. *A* is guilty of an offence of attempted theft even though he could not have opened the safe because of his inept memory of the code. 5

### **Punishment for attempting to commit offences**

**512.**—(1) A person who attempts to commit an offence punishable by this Code or by any other written law with death or imprisonment for life, shall, where no express provision is made by this Code or by such other written law for the punishment of such attempt, be punished with imprisonment for a term which may extend to 20 years, and shall also be liable to fine or to caning. 10 15

#### *Illustration*

*A* attempts to commit kidnapping of *B* in order that *B* may be murdered but did not succeed. If *A* had committed kidnapping in order to murder, he would have been punished with death or imprisonment for life (and would, if not sentenced to death, also be liable to caning). *A* shall be punished with imprisonment for a term which may extend to 20 years, and shall also be liable to fine or to caning. 20

(2) Subject to subsection (3), any person who attempts to commit an offence punishable by this Code or by any other written law (other than an offence mentioned in subsection (1)), shall, where no express provision is made by this Code or by such other written law for the punishment of such attempt, be punished with such punishment as is prescribed for that offence. 25

(3) Despite subsection (2), where the punishment prescribed for an offence mentioned in subsection (1) is fixed by law, a specified minimum sentence or a mandatory minimum sentence of imprisonment or fine or caning, the court sentencing the person who attempted to commit the offence — 30

(a) shall not be bound to impose such fixed, specified or mandatory minimum sentence; and 35

(b) may sentence the offender to such sentence or combination of sentences as the court thinks fit but not exceeding the maximum punishment prescribed for that offence.

5 (4) To avoid doubt, nothing in subsection (3)(b) empowers a court to impose a type of punishment that is not prescribed for an offence mentioned in subsection (1) or otherwise provided by any written law for that offence.

*Illustration*

10 *A attempts to commit robbery but did not succeed. If A had committed robbery, he would have been subject to a mandatory minimum term of imprisonment of not less than 2 years and mandatory caning of a minimum of 6 strokes. As the court is not bound to impose the minimum mandatory punishment prescribed for robbery, A may be sentenced to 6 months imprisonment with no caning for attempted robbery. However, the court may not sentence A to a fine, as this is not a prescribed punishment for robbery but the court may sentence A to probation if he is a young offender.*

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## **New Schedule**

20 **168.** The Penal Code is amended by inserting, immediately after section 512, the following Schedule:

### **“THE SCHEDULE**

Section 4B(2) and (3)

#### **SPECIFIED OFFENCES DEEMED TO BE COMMITTED IN SINGAPORE**

- 25
1. Communicating false information of harmful thing under section 268A.
  2. Placing or sending thing causing fear of harm under sections 268B and 268C.
  3. Theft under sections 379 to 382.
  4. Extortion and related offences under sections 384 to 389.
  - 30 5. Robbery and related offences under sections 392 to 402.
  6. Dishonest misappropriation of property under sections 403 and 404.
  7. Criminal breach of trust under sections 406 to 409.
  8. Receiving stolen property and related offences under sections 411 to 414.
  9. Cheating and related offences under sections 417 to 420.
  - 35 10. Obtaining services dishonestly or fraudulently under section 420A.

- 11. Offences relating to fraudulent deeds and dispositions of property under sections 421 to 424.
- 12. Fraud by false representation, non-disclosure or abuse of position under section 424A.
- 13. Forgery and related offences under sections 465 to 477A. 5
- 14. Offences relating to currency and bank notes under sections 489A to 489I.
- 15. All other offences in this Code or any other written law with fault elements of fraud, dishonesty or deception but excluding any offence under the Prevention of Corruption Act (Cap. 241) and the Securities and Futures Act (Cap. 289).” 10

PART 2

AMENDMENTS TO CRIMINAL PROCEDURE CODE

**Amendment of Criminal Procedure Code**

**169.**—(1) The Criminal Procedure Code (Cap. 68, 2012 Ed.) is amended — 15

(a) by inserting, immediately after the words “Children and Young Persons Act (Cap. 38),” in the definition of “child abuse offence” in section 2(1), the words “or an offence under section 377BG, 377BH, 377BI, 377BJ, 377BK or 377BL of the Penal Code (Cap. 224),”;

(b) by deleting paragraph (a) of the definition of “sexual offence” in section 2(1) and substituting the following paragraph:

“(a) an offence under section 354, 354A, 355, 372, 373, 373A, 375, 376, 376A, 376AA, 376B, 376C, 376D, 376E, 376EA, 376EB, 376EC, 376ED, 376EE, 376F, 376G, 376H, 377(3), 377A, 377B(3), 377BA, 377BB, 377BC, 377BD, 377BE or 377BF of the Penal Code; or”;

(c) by deleting subsection (1) of section 36 and substituting the following subsection:

“(1) Any police officer of or above the rank of sergeant, upon being satisfied that any person has in his possession —

(a) any counterfeit currency or any die, instrument or material for the purpose of counterfeiting any currency; or

(b) any forged or counterfeit bank note or any machinery, instrument or material used for the forging or counterfeiting of any bank note,

may, without warrant and with or without assistance, enter and search any place where any such currency or bank note or any such die, machinery, instrument or material is kept and seize any such currency, bank note, die, machinery, instrument or material.”;

(d) by deleting subsection (3) of section 36 and substituting the following subsection:

“(3) In this section, “bank note”, “currency”, “die” and “instrument” have the same meanings as in the Penal Code.”;

(e) by deleting the section heading of section 36 and substituting the following section heading:

**“Forfeiture of counterfeit currency or bank note, etc.”;**

(f) by deleting *illustration (a)* of section 127;

(g) by deleting the words “Chapter XII of the Penal Code relating to a counterfeit coin” in section 143(f) and substituting the words “Chapter XVIII of the Penal Code relating to a counterfeit currency”;

(h) by deleting the words “same coin” in section 143(f) and substituting the words “same currency”;

(i) by inserting, immediately after the words “Chapter IV” in *illustration 1* of section 165(1), the words “or right of private defence in Chapter IVA”;

- (j) by inserting, immediately after the words “Chapter IV” in *illustration 1* of section 217(1), the words “or right of private defence in Chapter IVA”;
- (k) by repealing section 251 and substituting the following section:

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**“Acquittal on ground of unsound mind**

**251.** If an accused is acquitted by operation of section 84 of the Penal Code, the finding must state specifically whether he committed the act or not.”;

- (l) by deleting “324, 325, 326, 327, 328, 329, 330, 331, 334, 335,” in section 264A(1)(b)(ii)(A) and substituting “323A, 324, 325, 326, 327, 328, 329, 330, 331, 334, 334A, 335, 335A, 335B,”;
- (m) by deleting the words “domestic maid” in section 264A(1)(b)(ii)(B)(BC) and (iii)(B)(BC) and substituting in each case the words “domestic worker”;
- (n) by inserting, immediately after sub-paragraph (BC) of section 264A(1)(b)(ii)(B), the following sub-paragraph:

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“(BD) the offence alleged to have been committed against or in relation to the person is one to which section 73, 74A, 74B, 74C or 74D of the Penal Code applies;”;

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- (o) by inserting, immediately after sub-paragraph (BC) of section 264A(1)(b)(iii)(B), the following sub-paragraph:

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“(BD) the offence alleged to have been committed against or in relation to the person is one to which section 73, 74A, 74B, 74C or 74D of the Penal Code applies;”;

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- (p) by deleting subsection (9) of section 264A and substituting the following subsection:

“(9) In this section, “domestic worker” and “member of the employer’s household” have the same meanings as in section 73(4) of the Penal Code.”;

5 (q) by inserting, immediately after paragraph (a) of section 281(2), the following paragraph:

“(aa) an offence under section 356, 357 or 358 of the Penal Code;”;

10 (r) by deleting the words “, 205 and 209” in section 281(10) and substituting the words “and 205”;

(s) by inserting, immediately after section 303, the following section:

**“Presumptive minimum sentence**

15 **303A.**—(1) This section applies where a presumptive minimum sentence is prescribed for an offence under any written law, which is denoted by the words “imprisonment for a presumptive minimum term of not less than” or words to the same or similar effect.

20 (2) The court must, unless subsection (3) applies, impose a sentence that is equal to or greater than the presumptive minimum sentence prescribed for that offence.

25 (3) Where the court is satisfied that by reason of exceptional circumstances it would be unjust to impose on a first-time offender the presumptive minimum sentence prescribed for an offence the first-time offender is convicted of, the court must impose a sentence of the same type of punishment but that is less than the presumptive minimum sentence prescribed for that offence.

30 (4) In any written law, unless the context requires otherwise, a reference to a mandatory minimum sentence of imprisonment shall include a reference

to a presumptive minimum sentence mentioned in subsection (1).

(5) In this section, “first-time offender”, in relation to an offence, means a person who does not fall within any of the following descriptions: 5

(a) a person who had previously been sentenced to a term of imprisonment for any offence, other than a term of imprisonment served by him in default of payment of a fine; 10

(b) a person who had previously been sentenced to reformatory training, corrective training or preventive detention, for any offence;

(c) a person who had previously been detained or subject to police supervision under section 30 of the Criminal Law (Temporary Provisions) Act (Cap. 67); 15

(d) a person who had previously been admitted to an approved institution under section 34 of the Misuse of Drugs Act (Cap. 185) or to an approved centre under section 17 of the Intoxicating Substances Act (Cap. 146A). 20

*Explanation.*—The circumstances must be so exceptional as to make it unjust to impose the presumptive minimum sentence for an offence and outweigh the public interests in punishing the offender with the presumptive minimum sentence. The mere presence of all or any of the following mitigating circumstances will not be sufficient to constitute “exceptional circumstances”: 25

(a) the offender pleaded guilty to the offence;

(b) the offender is a first-time offender;

(c) the offender is of previous good character. 30

”;

(t) by deleting “430A” in section 424 and substituting “427”; 35

(u) by inserting, immediately after “440,” in section 424, “442,”;

(v) by deleting “454, 455, 456, 457, 458,” in section 424; and

(w) by deleting “209,” in section 425A(2)(a).

5 (2) The First Schedule to the Criminal Procedure Code is amended —

(a) by inserting, immediately above the heading “CHAPTER V — ABETMENT”, the following heading and items:

10 “

CHAPTER III — PUNISHMENTS						
73	Enhanced penalties for offences alleged to have been committed against domestic workers	May arrest without warrant	Warrant	According as to whether the offence alleged to have been committed against or in relation to the person is bailable or not	Up to twice the punishment provided for the offence	Magistrate’s Court or District Court
74A	Enhanced penalties for offences alleged to have been committed against vulnerable persons	May arrest without warrant	Warrant	According as to whether the offence alleged to have been committed against or in relation to the person is bailable or not	Up to twice the punishment provided for the offence	Magistrate’s Court or District Court
74B	Enhanced penalties for offences alleged to have been committed against child below 14 years of age	May arrest without warrant	Warrant	According as to whether the offence alleged to have been committed against or in relation to the person is bailable or not	Up to twice the punishment provided for the offence	Magistrate’s Court or District Court

40 ”;

(b) by deleting the words “7 years” under the sixth column in the first item relating to section 115 and substituting the words “15 years”;

45 (c) by deleting the words “14 years” under the sixth column in the second item relating to section 115 and substituting the words “20 years”;

(d) by deleting both items relating to section 116 and substituting the following item:

“

116	Abetment of an offence punishable with imprisonment, if the offence is not committed in consequence of the abetment	May arrest without warrant, if arrest for the offence abetted may be made without warrant but not otherwise	According as to whether a warrant or summons may issue for the offence abetted	According as to whether the offence abetted is bailable or not	The same punishment as for the offence abetted, provided that any mandatory minimum sentence or sentence fixed by law does not apply	The court by which the offence abetted is triable
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(e) by deleting the word “object” under the third to seventh columns in the item relating to section 120B and substituting in each case the word “subject”;

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(f) by deleting the words “, and fine” under the sixth column in the items relating to sections 121 and 121B;

(g) by deleting the words “one year, or fine\*” under the sixth column in the item relating to section 182 and substituting the words “2 years, or fine”;

20

(h) by deleting the words “imprisonment for life or” under the second column in the item relating to section 195”;

(i) by inserting, immediately after the item relating to section 195, the following item:

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“

195	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with imprisonment for life	According as to whether arrest may be made without warrant for the offence or not	Warrant	Not bailable	Imprisonment for 20 years	The court by which the offence abetted is triable
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”;

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(j) by deleting the item relating to section 209;

(k) by deleting the words “COIN AND” in the heading of Chapter XII;

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(l) by deleting the items relating to sections 231 to 255 and substituting the following item:

“

255	Counterfeiting a Government stamp	May arrest without warrant	Warrant	Bailable	Imprisonment for 10 years, and fine	District Court
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”;

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(m) by deleting the heading “CHAPTER XIII — OFFENCES RELATING TO WEIGHTS AND MEASURES” and the items relating to sections 264 to 267;

5 (n) by deleting the words “Not bailable” under the fifth column in the item relating to section 267B and substituting the word “Bailable”;

(o) by inserting, immediately after the item relating to section 267C, the following items:

10 “

268A	Communicating false information of harmful thing	May arrest without warrant	Warrant	Not bailable	Imprisonment for 7 years, or fine*, or both	District Court
268B	Placing or sending thing with intent to cause fear of harm	May arrest without warrant	Warrant	Not bailable	Imprisonment for 7 years, or fine*, or both	District Court
268C	Placing or sending thing causing fear of harm	May arrest without warrant	Warrant	Bailable	Imprisonment for 6 months, or fine*, or both	Magistrate’s Court or District Court

15 ”;

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(p) by deleting the words “6 months, or fine\*” under the sixth column in the item relating to section 272 and substituting the words “3 years, or fine”;

25 (q) by deleting the words “one year, or fine\*” under the sixth column in the item relating to section 277 and substituting the words “3 years, or fine”;

(r) by deleting the word “Ditto” under the sixth column in the item relating to section 279 and substituting the words “Imprisonment for one year, or fine\*, or both”;

30 (s) by deleting the items relating to sections 284, 285 and 286 and substituting the following items:

35 “

284(1)(a)	Rash or negligent conduct with dangerous or harmful substance so as to be likely to cause hurt or injury to any other person	May arrest without warrant	Summons	Bailable	Imprisonment for one year, or fine*, or both	Magistrate’s Court or District Court
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284(1)(b)	Rash or negligent conduct with dangerous or harmful substance so as to endanger human life	May arrest without warrant	Summons	Bailable	Imprisonment for one year, or fine*, or both	Magistrate's Court or District Court	5
284(1)(c)	Rash or negligent conduct with dangerous or harmful substance so as to cause hurt to any other person	May arrest without warrant	Summons	Bailable	Imprisonment for 3 years, or fine, or both	Magistrate's Court or District Court	10 15
284(1)(d)	Rash or negligent conduct with dangerous or harmful substance so as to cause grievous hurt to any other person	May arrest without warrant	Summons	Bailable	Imprisonment for 6 years, or fine, or both	Magistrate's Court or District Court	20 25
284(1)(e)	Rash or negligent conduct with dangerous or harmful substance so as to cause death of any other person	May arrest without warrant	Summons	Bailable	Imprisonment for 7 years, or fine, or both	Magistrate's Court or District Court	30 35
285(1)(a)	Causing or contributing to the risk of dangerous fire where the fire is likely to cause hurt or injury to any other person	May arrest without warrant	Summons	Bailable	Imprisonment for one year, or fine*, or both	Magistrate's Court or District Court	40 45
285(1)(b)	Where the fire endangers human life	May arrest without warrant	Summons	Bailable	Imprisonment for one year, or fine*, or both	Magistrate's Court or District Court	50
285(1)(c)	Where the fire damages property or diminishes value or utility thereof	May arrest without warrant	Summons	Bailable	Imprisonment for 18 months, or fine, or both	Magistrate's Court or District Court	55
285(1)(d)	Where the fire causes hurt or injury to any other person	May arrest without warrant	Summons	Bailable	Imprisonment for 3 years, or fine, or both	Magistrate's Court or District Court	60
285(1)(e)	Where the fire causes grievous hurt to any other person	May arrest without warrant	Summons	Bailable	Imprisonment for 6 years, or fine, or both	Magistrate's Court or District Court	60

285(1)(f)	Where the fire causes death to any other person	May arrest without warrant	Summons	Bailable	Imprisonment for 7 years, or fine, or both	Magistrate's Court or District Court
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5 (t) by deleting the items relating to sections 287 to 290 and substituting the following items:

“

10 287(1)(a)	Rash or negligent conduct with machinery so as to be likely to cause hurt or injury to any other person	May arrest without warrant	Summons	Bailable	Imprisonment for one year, or fine*, or both	Magistrate's Court or District Court
15 287(1)(b)	Rash or negligent conduct with machinery so as to endanger human life	May arrest without warrant	Summons	Bailable	Imprisonment for one year, or fine*, or both	Magistrate's Court or District Court
20 287(1)(c)	Rash or negligent conduct with machinery so as to cause hurt or injury to any other person	May arrest without warrant	Summons	Bailable	Imprisonment for 3 years, or fine, or both	Magistrate's Court or District Court
25 287(1)(d)	Rash or negligent conduct with machinery so as to cause grievous hurt to any other person	May arrest without warrant	Summons	Bailable	Imprisonment for 6 years, or fine, or both	Magistrate's Court or District Court
30 287(1)(e)	Rash or negligent conduct with machinery so as to cause death of any other person	May arrest without warrant	Summons	Bailable	Imprisonment for 7 years, or fine, or both	Magistrate's Court or District Court
35 288(1)(a)	Negligence in pulling down or repairing buildings so as to endanger human life	May arrest without warrant	Summons	Bailable	Imprisonment for one year, or fine*, or both	Magistrate's Court or District Court
40 288(1)(b)	Negligence in pulling down or repairing buildings so as to cause death of any other person	May arrest without warrant	Summons	Bailable	Imprisonment for 7 years, or fine, or both	Magistrate's Court or District Court

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289(1)(a)	Negligent conduct with respect to any animal so as to be likely to cause grievous hurt	May arrest without warrant	Summons	Bailable	Imprisonment for one year, or fine*, or both	Magistrate's Court or District Court	5
289(1)(b)	Negligent conduct with respect to any animal so as to endanger human life	May arrest without warrant	Summons	Bailable	Imprisonment for one year, or fine*, or both	Magistrate's Court or District Court	10
289(1)(c)	Negligent conduct with respect to any animal so as to cause grievous hurt to any other person	May arrest without warrant	Summons	Bailable	Imprisonment for 6 years, or fine, or both	Magistrate's Court or District Court	15 20
289(1)(d)	Negligent conduct with respect to any animal so as to cause death of any other person	May arrest without warrant	Summons	Bailable	Imprisonment for 7 years, or fine, or both	Magistrate's Court or District Court	25
290(a)	Committing a public nuisance	May arrest without warrant	Summons	Bailable	Fine*	Magistrate's Court or District Court	30
290(b)	Where the offender knew that the public nuisance will cause or will probably cause any common injury, danger or annoyance to the public, or to the people in general who dwell or occupy property in the vicinity	May arrest without warrant	Summons	Bailable	Imprisonment for 3 months, or fine*, or both	Magistrate's Court or District Court	35 40 45
290(c)	Committing a public nuisance on second or subsequent conviction	May arrest without warrant	Summons	Bailable	Imprisonment for 3 months, or fine*, or both	Magistrate's Court or District Court	50

(u) by deleting “292” under the first column in the item relating to section 292 and substituting “292(1)”;

(v) by inserting, immediately before the item relating to section 293, the following items:

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292(1A)	Sale, etc., of obscene objects depicting minor below 16 years of age	May arrest without warrant	Warrant	Bailable	Imprisonment for 2 years, or fine, or both	Magistrate’s Court or District Court
292A	Possession, distribution, etc., of child sex-doll	May arrest without warrant	Warrant	Bailable	Imprisonment for 2 years, or fine, or both	Magistrate’s Court or District Court

”;

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(w) by deleting the word “song” under the second column in the item relating to section 294 and substituting the word “words”;

15

(x) by deleting the word “Bailable” under the fifth column in the items relating to the following sections and substituting in each case the words “Not bailable”:

Sections 295, 296, 297, 298, 298A, 312 (both items), 317, 324, 325, 330, 332, 342, 345, 346, 347, 348, 354(2), 370, 376B(1), 376B(2), 376C(2) (both items), 419, 427, 435 and 506 (both items);

20

(y) by deleting the words “10 years” under the sixth column in the item relating to section 304(b) and substituting the words “15 years”;

(z) by inserting, immediately after the item relating to section 304A(b), the following items:

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“

304B	Causing death of child below 14 years of age, domestic worker or vulnerable person by sustained abuse	May arrest without warrant	Warrant	Not bailable	Imprisonment for 20 years, and fine, or caning	District Court
304C	Causing or allowing death of child below 14 years of age or vulnerable person in same household	May arrest without warrant	Warrant	Not bailable	Imprisonment for 20 years, and fine, or caning	District Court

”;

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(za) by deleting the item relating to section 305 and substituting the following items:

“

305(1)(a)	Abetment of suicide of minor, or person who lacks capacity	May arrest without warrant	Warrant	Not bailable	Death, or imprisonment for life, or imprisonment for 20 years, and fine		5
305(1)(b)	Abetment of attempted suicide committed by minor, or person who lacks capacity	May arrest without warrant	Warrant	Not bailable	Imprisonment for 15 years, and fine	District Court	10
305(1)(c)	Abetment of attempted suicide of minor, or person who lacks capacity where hurt is caused	May arrest without warrant	Warrant	Not bailable	Imprisonment for life, or imprisonment for 20 years, and fine	District Court	15 20

”;

(zb) by inserting, immediately after the word “suicide” under the second column in the item relating to section 306, the words “or attempted suicide”;

(zc) by inserting, immediately after the second item relating to section 308, the following items:

“

308A	Causing death in furtherance of group’s object	May arrest without warrant	Warrant	Not bailable	Imprisonment for life, or imprisonment for 20 years, and caning		30
308B	Concealment, desecration or disposal of corpse that impedes discovery, identification, criminal investigations or prosecutions	May arrest without warrant	Warrant	Not bailable	Imprisonment for 7 years	District Court	35 40

”;

(zd) by deleting the item relating to section 309;

(ze) by deleting the words “woman is quick with child” under the second column in the second item relating to section 312 and substituting the words “woman’s pregnancy is more than 16 weeks”;

(zf) by deleting the words “2 years” under the sixth column in the item relating to section 323 and substituting the words “3 years”;

(zg) by inserting, immediately after the item relating to section 323, the following item:

“

323A	Voluntarily causing hurt which causes grievous hurt	May arrest without warrant	Summons	Bailable	Imprisonment for 5 years, or fine*, or both	Magistrate’s Court or District Court
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”;

(zh) by deleting the words “stupefying drug” under the second column in the item relating to section 328 and substituting the words “poison, etc.”;

(zi) by deleting the words “, or any combination of such punishments” under the sixth column in the item relating to section 332;

(zj) by deleting the words “3 months” under the sixth column in the item relating to section 334 and substituting the words “6 months”;

(zk) by inserting, immediately after the item relating to section 334, the following item:

“

334A	Voluntarily causing hurt on provocation which causes grievous hurt	May arrest without warrant	Summons	Bailable	Imprisonment for one year, or fine*, or both	Magistrate’s Court or District Court
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”;

(zl) by inserting, immediately after the item relating to section 335, the following items:

“

335A(5)(a)	Allowing neglect or physical or sexual abuse of domestic worker or vulnerable person where death is caused	May arrest without warrant	Warrant	Not bailable	Imprisonment for 7 years, or fine*, or both	District Court
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335A(5)(b)	Allowing neglect or physical or sexual abuse of domestic worker or vulnerable person where death is not caused	May arrest without warrant	Warrant	Not bailable	Imprisonment for 4 years, or fine*, or both	District Court
335B	Act which endangers human life, etc., with knowledge or belief that it is likely to cause death	May arrest without warrant	Warrant	Not bailable	Imprisonment for 7 years, or fine, or both	District Court

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”;

(zm) by deleting the word “Ditto” under the fourth column in the item relating to section 336(a) and substituting the word “Summons”;

(zn) by deleting the word “Ditto” under the seventh column in the item relating to section 336(a) and substituting the words “Magistrate’s Court or District Court”;

(zo) by deleting the words “one year, or fine\*” under the sixth column in the item relating to section 342 and substituting the words “3 years, or fine”;

(zp) by deleting the items relating to sections 343 and 344;

(zq) by deleting the item relating to section 369;

(zr) by deleting the item relating to section 375(3)(b) and substituting the following items:

“

375(3)(b)	Rape of person below 14 years of age without person’s consent	May arrest without warrant	Warrant	Not bailable	Imprisonment for 20 years, and caning	
375(3)(c)	Exploitative rape of person below 14 years of age	May arrest without warrant	Warrant	Not bailable	Imprisonment for 20 years, and caning	

”;

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(zs) by deleting the word “by” under the second column in the items relating to section 376(3), 376(4)(a) and 376(4)(b) and substituting in each case the word “involving”;

45

(zt) by inserting, immediately after the item relating to section 376(4)(b), the following item:

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“

376(4)(c)	Exploitative sexual assault involving penetration of person below 14 years of age	May arrest without warrant	Warrant	Not bailable	Imprisonment for 20 years, and caning	
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”;

(zu) by deleting the item relating to section 376A(2) and substituting the following items:

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“

376A(2)(a)	Exploitative sexual penetration of minor of or above 14 but below 16 years of age	May arrest without warrant	Warrant	Not bailable	Imprisonment for 20 years, and fine, or caning	District Court
376A(2)(b)	Sexual penetration of minor of or above 14 but below 16 years of age	May arrest without warrant	Warrant	Not bailable	Imprisonment for 10 years, or fine, or both	District Court

”;

(zv) by inserting the words “District Court” in the seventh column of the item relating to section 376A(3);

(zw) by inserting, immediately after the item relating to section 376A(3), the following item:

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“

376AA	Exploitative sexual penetration of minor of or above 16 but below 18 years of age	May arrest without warrant	Warrant	Not bailable	Imprisonment for 15 years, and fine, or caning	District Court
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”;

(zx) by deleting the words “sex with” under the second column in the items relating to sections 376B(1), 376B(2), 376C(2) (both items) and 376D(3) and substituting in each case the words “sex or sexual touching involving”;

35

(zy) by deleting the item relating to section 376E(4) and substituting the following items:

“

376E(4)(a)	Sexual grooming of minor below 14 years of age	May arrest without warrant	Summons	Not bailable	Imprisonment for 4 years, or fine, or both	Magistrate’s Court or District Court
376E(4)(b)	Sexual grooming of minor of or above 14 but below 16 years of age	May arrest without warrant	Summons	Not bailable	Imprisonment for 3 years, or fine, or both	Magistrate’s Court or District Court

”;

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(zz) by inserting, immediately before the item relating to section 376F(2), the following items:

“

376EA(4)	Exploitative sexual grooming of minor of or above 16 but below 18 years of age	May arrest without warrant	Warrant	Not bailable	Imprisonment for 3 years, or fine, or both	Magistrate’s Court or District Court
376EB(3)(a)	Sexual communication with minor below 14 years of age	May arrest without warrant	Warrant	Not bailable	Imprisonment for 3 years, or fine, or both	Magistrate’s Court or District Court
376EB(3)(b)	Sexual communication with minor of or above 14 but below 16 years of age	May arrest without warrant	Warrant	Not bailable	Imprisonment for 2 years, or fine, or both	Magistrate’s Court or District Court
376EC(3)	Exploitative sexual communication with minor of or above 16 but below 18 years of age	May arrest without warrant	Warrant	Not bailable	Imprisonment for 2 years, or fine, or both	Magistrate’s Court or District Court
376ED(1)	Engaging in sexual activity in presence of minor below 14 years of age	May arrest without warrant	Warrant	Not bailable	Imprisonment for 3 years, or fine, or both	Magistrate’s Court or District Court
376ED(1)	Engaging in sexual activity in presence of minor of or above 14 but below 16 years of age	May arrest without warrant	Warrant	Not bailable	Imprisonment for one year, or fine, or both	Magistrate’s Court or District Court
376ED(2)	Causing minor below 14 years of age to observe sexual image	May arrest without warrant	Warrant	Not bailable	Imprisonment for 3 years, or fine, or both	Magistrate’s Court or District Court

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376ED(2)	Causing minor of or above 14 but below 16 years of age to observe sexual image	May arrest without warrant	Warrant	Not bailable	Imprisonment for one year, or fine, or both	Magistrate's Court or District Court
376EE(1)	Engaging in sexual activity in presence of minor of or above 16 but below 18 years of age with exploitative relationship	May arrest without warrant	Summons	Not bailable	Imprisonment for one year, or fine, or both	Magistrate's Court or District Court
376EE(2)	Causing minor of or above 16 but below 18 years of age to observe sexual image with exploitative relationship	May arrest without warrant	Summons	Not bailable	Imprisonment for one year, or fine, or both	Magistrate's Court or District Court

(*zza*) by deleting the words “Shall not arrest without warrant” under the third column in the item relating to section 376F(2) and substituting the words “May arrest without warrant”;

(*zzb*) by deleting the word “Bailable” under the fifth column in the item relating to section 376F(2) and substituting the words “Not bailable”;

(*zzc*) by deleting the words “2 years” under the sixth column in the item relating to section 376F(2) and substituting the words “5 years”;

(*zzd*) by deleting the words “10 years, or fine, or both” under the sixth column in the item relating to section 376F(3) and substituting the words “20 years, and fine, or caning”;

(zze) by deleting the items relating to section 376G(3), 376G(4) and 376G(5) and substituting the following items:

“

376G	Incest	May arrest without warrant	Warrant	Not bailable	Imprisonment for 5 years	Magistrate's Court or District Court
376H(2)(a)	Procurement of sexual activity by deception or false representation if penetration is involved	May arrest without warrant	Warrant	Not bailable	Imprisonment for 10 years, or fine, or caning	District Court
376H(2)(b)	Procurement of sexual activity by deception or false representation in any other case	May arrest without warrant	Warrant	Bailable	Imprisonment for 2 years, or fine, or both	District Court

”;

(zzf) by inserting, immediately after the second item relating to section 377B(4), the following items:

“

377BA	Uttering any word or making any gesture intended to insult the modesty of a person, etc.	May arrest without warrant	Summons	Bailable	Imprisonment for one year, or fine, or both	Magistrate's Court or District Court
377BB(7)	Voyeurism	May arrest without warrant	Warrant	Not bailable	Imprisonment for 2 years, or fine, or caning	Magistrate's Court or District Court
377BB(8)	If committed against any person below 14 years of age	May arrest without warrant	Warrant	Not bailable	Imprisonment for 2 years, and fine, or caning	Magistrate's Court or District Court
377BC(3)	Distribution of voyeuristic image or recording	May arrest without warrant	Warrant	Not bailable	Imprisonment for 5 years, or fine, or caning	Magistrate's Court or District Court
377BC(4)	If committed against any person below 14 years of age	May arrest without warrant	Warrant	Not bailable	Imprisonment for 5 years, and fine, or caning	Magistrate's Court or District Court

”

5	377BD(2)	Possession of or gaining access to voyeuristic or intimate image or recording	May arrest without warrant	Warrant	Not bailable	Imprisonment for 2 years, or fine, or both	Magistrate's Court or District Court
10	377BD(3)	If committed against any person below 14 years of age	May arrest without warrant	Warrant	Not bailable	Imprisonment for 2 years, and fine, or caning	Magistrate's Court or District Court
15	377BE(3)	Distributing or threatening to distribute intimate image or recording	May arrest without warrant	Warrant	Not bailable	Imprisonment for 5 years, or fine, or caning	Magistrate's Court or District Court
20	377BE(4)	If committed against any person below 14 years of age	May arrest without warrant	Warrant	Not bailable	Imprisonment for 5 years, and fine, or caning	Magistrate's Court or District Court
25	377BF(3)	Sexual exposure	May arrest without warrant	Summons	Bailable	Imprisonment for one year, or fine, or both	Magistrate's Court or District Court
30	377BF(4)	If committed against any person below 14 years of age	May arrest without warrant	Warrant	Not bailable	Imprisonment for 2 years, and fine, or caning	Magistrate's Court or District Court
35	377BG(2)	Using or involving child in production of child abuse material	May arrest without warrant	Warrant	Not bailable	Imprisonment for 10 years, and fine, or caning	District Court
40	377BH(2)	Producing child abuse material	May arrest without warrant	Warrant	Not bailable	Imprisonment for 10 years, and fine, or caning	District Court
45	377BI(2)	Distributing or selling child abuse material	May arrest without warrant	Warrant	Not bailable	Imprisonment for 7 years, and fine, or caning	District Court
50	377BJ(3)	Advertising or seeking child abuse material	May arrest without warrant	Warrant	Not bailable	Imprisonment for 5 years, and fine, or caning	Magistrate's Court or District Court
55	377BK(2)	Possession of or gaining access to child abuse material	May arrest without warrant	Warrant	Not bailable	Imprisonment for 5 years, and fine, or caning	Magistrate's Court or District Court
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377BL(2)	Exploitation by abusive material of minor of or above 16 but below 18 years of age by using, causing or procuring minor in production of abusive material	May arrest without warrant	Warrant	Not bailable	Imprisonment for 10 years, and fine, or caning	District Court	5
377BL(3)	Exploitation by producing abusive material of minor	May arrest without warrant	Warrant	Not bailable	Imprisonment for 10 years, and fine, or caning	District Court	10 15
377BL(4)	Exploitation by distributing or sale of abusive material of minor	May arrest without warrant	Warrant	Not bailable	Imprisonment for 7 years, and fine, or caning	District Court	20 25

- (*zzg*) by deleting the word “wandering” under the second column in the item relating to section 401;
- (*zzh*) by deleting the words “by a carrier, wharfinger, etc.” under the second column in the item relating to section 407 and substituting the words “of property entrusted for purposes of transportation or storage”;
- (*zzi*) by deleting the words “a clerk or servant” under the second column in the item relating to section 408 and substituting the word “employees”;
- (*zzj*) by deleting the words “or agent” under the second column in the item relating to section 409 and substituting the words “, agent, director, officer”;
- (*zzk*) by deleting the words “for life, or imprisonment” under the sixth column in the item relating to section 409;
- (*zzl*) by deleting the words “Dishonestly receiving” under the second column in the item relating to section 411(1) and substituting the word “Receiving”;

(*zzm*) by deleting the item relating to section 412 and substituting the following item:

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“

412	Receiving property stolen in the commission of gang-robbery	May arrest without warrant	Warrant	Not bailable	Imprisonment for 20 years, and fine	District Court
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”;

(*zzn*) by inserting the words “District Court” in the seventh column of the item relating to section 413;

(*zzo*) by inserting, immediately after the item relating to section 414(2), the following item:

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“

416A(5)	Illegally obtained personal information	May arrest without warrant	Warrant	Not bailable	Imprisonment for 3 years, or fine*, or both	Magistrate’s Court or District Court
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(*zzp*) by inserting, immediately after the item relating to section 420, the following item:

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“

420A	Obtaining services dishonestly or fraudulently	May arrest without warrant	Warrant	Not bailable	Imprisonment for 10 years, or fine, or both	Magistrate’s Court or District Court
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”;

(*zzq*) by inserting, immediately after the item relating to section 424, the following item:

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“

424A(3)	Fraud by false representation, non-disclosure or abuse of position not connected with contracts for goods or services	May arrest without warrant	Warrant	Not bailable	Imprisonment for 20 years, or fine, or both	Magistrate’s Court or District Court
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”;

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(*zzr*) by inserting, immediately after the item relating to section 424A(3), the following item:

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“

424B(3)	Fraud by false representation, non-disclosure or abuse of position — where otherwise	Shall not arrest without warrant	Warrant	Not bailable	Imprisonment for 20 years, or fine, or both	Magistrate’s Court or District Court
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”;

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(*zzs*) by deleting the words “one year” under the sixth column in the item relating to section 426 and substituting the words “2 years”;

- (*zzt*) by deleting the words “damage to the amount of \$500 or upwards” under the second column in the item relating to section 427 and substituting the words “disruption to key service, etc.”;
- (*zzu*) by deleting the words “2 years” under the sixth column in the item relating to section 427 and substituting the words “10 years”; 5
- (*zzv*) by deleting the items relating to sections 430 to 434;
- (*zzw*) by deleting the word “House-trespass” under the second column in the items relating to sections 448, 449, 450, 451 (first item) and 452 and substituting in each case the word “House-breaking”; 10
- (*zzx*) by deleting the words “one year, or fine\*” under the sixth column in the item relating to section 448 and substituting the words “3 years, or fine”; 15
- (*zzy*) by deleting the words “10 years” under the sixth column in the items relating to sections 449 and 450 and substituting in each case the words “15 years”;
- (*zzz*) by deleting the words “2 years” under the sixth column in the first item relating to section 451 and substituting the words “10 years”; 20
- (*zzza*) by deleting the second item relating to section 451;
- (*zzzb*) by deleting the word “Ditto” under the sixth column in the item relating to section 452 and substituting the words “Imprisonment for 10 years, and fine, or caning”; 25
- (*zzzc*) by deleting the items relating to sections 453 to 458 and substituting the following item:

“

453	Possession of house-breaking implements or offensive weapons	May arrest without warrant	Warrant	Bailable	Imprisonment for 2 years, or fine, or both and forfeiture of any instrument or article found in the possession of that person	Magistrate’s Court or District Court
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”;

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(zzzd) by deleting the item relating to section 458A and substituting the following item:

“

458A	Committing an offence under section 449, 450, 451 or 452 subsequent to having been convicted of an offence under section 449, 450, 451 or 452	May arrest without warrant	Warrant	Not bailable	Caning in addition to the punishment prescribed for the offence	District Court
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”;

(zzze) by deleting the words “lurking house-trespass or” under the second column in the item relating to section 459;

(zzzf) by deleting the words “by night, etc.” under the second column in the item relating to section 460;

(zzzg) by deleting the words “*Currency notes*” in the sub-heading immediately above the item relating to section 489A and substituting the word “*Currency*”;

(zzzh) by deleting the words “currency notes” under the second column in the items relating to sections 489A, 489B, 489C and 489D and substituting in each case the word “currency”;

(zzzi) by inserting the words “District Court” in the seventh column of the items relating to sections 489A, 489B, 489C and 489D;

(zzzj) by inserting, immediately after the words “Imprisonment for 15 years” under the sixth column in the item relating to section 489C, the words “, and fine”;

(zzzk) by inserting, immediately after the item relating to section 489D, the following items:

“

489E	Abetting in Singapore counterfeiting of currency out of Singapore	May arrest without warrant	Warrant	Not bailable	The punishment provided for abetting the counterfeiting of such currency within Singapore	District Court
489F	Fraudulently or dishonestly diminishing weight or altering composition of coin	May arrest without warrant	Warrant	Not bailable	Imprisonment for 7 years, and fine	District Court

489G	Altering appearance of currency with intent that it passes as currency of different description	May arrest without warrant	Warrant	Not bailable	Imprisonment for 7 years, and fine	District Court
489H	Delivering to another of altered currency	May arrest without warrant	Warrant	Not bailable	Imprisonment for 10 years, and fine	District Court
489I	Possession of altered currency	May arrest without warrant	Warrant	Not bailable	Imprisonment for 5 years, and fine	Magistrate's Court or District Court

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(*zzzl*) by deleting the heading “CHAPTER XX — OFFENCES RELATING TO MARRIAGE” and the items relating to sections 493 to 496;

(*zzzm*) by deleting the items relating to sections 508 and 509; and

(*zzzn*) by deleting both items relating to section 511 and substituting the following items:

20

“

512(1)	Attempting (where no express provision is made by the Penal Code or by other written law) to commit offences punishable with death or imprisonment for life	May arrest without warrant	Warrant	Not bailable	Imprisonment for 20 years, and fine, or caning	
512(2)	If the attempted offence is punishable with any punishment or combination of punishments other than death or imprisonment for life	According as to whether the offence is one in respect of which the police may arrest without warrant or not	According as to whether the offence is one in respect of which a summons or warrant shall ordinarily issue	According as to whether the offence attempted is bailable or not	The punishment provided for the offence, except that the court is not bound to impose any specified minimum sentence or mandatory minimum sentence of imprisonment, or fine or caning	The court by which the offence attempted is triable

”

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(3) Part I of the Fourth Schedule to the Criminal Procedure Code is amended —

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(a) by deleting item 9;

(b) by inserting, immediately after item 21, the following item:

“

21A.	334A	Voluntarily causing hurt on grave and sudden provocation which causes grievous hurt	Compoundable by the person hurt
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”;

5 (c) by inserting, immediately after item 33, the following items:

“

33A.	377BA	Word or gesture intended to insult modesty of any person	Compoundable by the person insulted
33B.	377BB(1) read with 377BB(7)	Voyeurism by intentional observation of another person	Compoundable by the person of or above 14 years of age whose private act was observed
33C.	377BF(1) read with 377BF(3)	Sexual exposure	Compoundable by the person of or above 14 years of age to whom the offender's genitals were exposed

”;

15 (d) by deleting items 35, 37 and 43; and

(e) by deleting items 44 and 45 and substituting the following items:

“

44.	512(1)	Attempting (where no express provision made by the Penal Code or by other written law) to commit offences punishable with death or imprisonment for life	Compoundable by the victim if this Code or any other written law under which the attempted offence is committed provides for the attempted offence to be compoundable by the victim
45.	512(2)	Where the attempted offence in section 512(1) is not an offence punishable with death or life imprisonment	Compoundable by the victim if this Code or any other written law under which the attempted offence is committed provides for the attempted offence to be compoundable by the victim

”.

## PART 3

### AMENDMENTS TO OTHER ACTS

#### 30 **Amendment of Arms Offences Act**

**170.** Item 6 of the Schedule to the Arms Offences Act (Cap. 14, 2008 Ed.) is amended by deleting the words “and house-trespass under sections 448 to 460” and substituting the words “under sections 442, 448 to 453, 458A, 459 and 460”.

#### 35 **Amendment of Children and Young Persons Act**

**171.** The Children and Young Persons Act (Cap. 38, 2001 Ed.) is amended —

(a) by inserting, immediately after subsection (1) of section 5, the following subsection:

“(1A) For the purposes of subsection (1) —

(a) a person (*A*) knowingly permits a child or young person (*B*) to be ill-treated by another person (*C*) if *A* being a person who has the custody, charge or care of *B*, knows or has reason to believe that *B* was at risk of being ill-treated by *C*, and failed to take such steps as *A* could reasonably have been expected in *A*’s circumstances to take to protect *B* from that risk; and

(b) *A*’s circumstances mentioned in paragraph (a) include but are not limited to *A*’s past or present experiences of being ill-treated by *C*, if any.”;

(b) by deleting “\$20,000” in section 5(5)(a) and substituting “\$40,000”;

(c) by deleting the words “7 years” in section 5(5)(a) and substituting the words “14 years”;

(d) by deleting “\$4,000” in section 5(5)(b) and substituting “\$8,000”;

(e) by deleting the words “4 years” in section 5(5)(b) and substituting the words “8 years”; and

(f) by repealing section 7 and substituting the following section:

**“Sexual exploitation of child or young person**

7.—(1) Any person shall be guilty of an offence who, in public or private —

(a) commits or abets the commission of or procures or attempts to procure the commission by any person of any obscene or indecent act with any child or young person; or

(b) procures or attempts to procure the commission of any obscene or indecent act by any child or young person.

5 (2) Any person who is guilty of an offence under subsection (1) shall be liable on conviction —

10 (a) in the case of an offence committed against a young person, to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 5 years or to both and, in the case of a second or subsequent conviction, to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 7 years or to both; and

15 (b) in the case of an offence committed against a child, to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 7 years or to both and, in the case of a second or subsequent conviction, to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 10 years or to both.

20 (3) For the purposes of subsection (2) and to avoid doubt, a conviction for an offence is treated as a second or subsequent conviction if the previous conviction was for an offence punishable under subsection (2)(a) or (b) or under the repealed section 7 in force immediately before the date of commencement of section 171 of the Criminal Law Reform Act 2019.”.

30 **Amendment of Criminal Law (Temporary Provisions) Act**

**172.** Item 6 of the Third Schedule to the Criminal Law (Temporary Provisions) Act (Cap. 67, 2000 Ed.) is amended by deleting “454, 455, 457, 458, 506, 511” and substituting “449, 506, 512”.

**Amendment of Employment of Foreign Manpower Act**

**173.** Section 22B(1) of the Employment of Foreign Manpower Act (Cap. 91A, 2009 Ed.) is amended by deleting the word “term” and substituting the words “presumptive minimum term”.

**Amendment of Evidence Act**

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**174.** The Evidence Act (Cap. 97, 1997 Ed.) is amended —

- (a) by deleting *illustration (b)* of section 45;
- (b) by deleting the words “section 494 or 495 of the Penal Code (Cap. 224)” in section 52(2) and substituting the words “section 6A of the Women’s Charter (Cap. 353)”;
- (c) by deleting the words “, 205 and 209” in section 62A(7) and substituting the words “and 205”;
- (d) by renumbering section 124 as subsection (1) of that section, and by inserting immediately thereafter the following subsections:

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“(2) Nothing in this section protects from disclosure any such communication made that is relevant in any criminal proceedings in respect of a specified offence.

(3) In this section —

“domestic worker” has the meaning given by section 73(4) of the Penal Code (Cap. 224);

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“employer”, in relation to a domestic worker, has the meaning given by section 73(4) of the Penal Code;

“employment agent”, in relation to a domestic worker, has the meaning given by section 73(4) of the Penal Code;

25

“member of the employer’s household” has the meaning given by section 73(4) of the Penal Code;

30

“specified offence” means any of the following offences:

- (a) a child abuse offence;
- (b) a sexual offence committed against a person below 16 years of age;
- 5 (c) a sexual offence or an offence under Chapter XVI of the Penal Code (other than a sexual offence) committed against a domestic worker by an employer of the domestic worker, a member of the employer’s household or an employment agent of the domestic worker;
- 10 (d) a sexual offence or an offence under Chapter XVI of the Penal Code (other than a sexual offence) committed against a vulnerable person by a person who has the custody, charge or care of the vulnerable person;

“vulnerable person” has the meaning given by section 74A(5) of the Penal Code.”;

- 20 (e) by inserting, immediately after item 1 of Part 1 of the First Schedule, the following item:

“2. Any offence under section 377BG, 377BH, 377BI, 377BJ, 377BK or 377BL of the Penal Code.”; and

- 25 (f) by deleting item 1 of Part 2 of the First Schedule and substituting the following item:

“1. Any offence under section 354, 354A, 355, 372, 373, 373A, 375, 376, 376A, 376AA, 376B, 376C, 376D, 376E, 376EA, 376EB, 376EC, 376ED, 376EE, 376F, 376G, 376H, 377(3), 377A, 377B(3), 377BA, 377BB, 377BC, 377BD, 377BE or 377BF of the Penal Code.”.

### **Amendment of Fisheries Act**

**175.** Section 12(2) of the Fisheries Act (Cap. 111, 2002 Ed.) is amended by deleting the word “term” and substituting the words “presumptive minimum term”.

**Amendment of Immigration Act**

**176.** The Immigration Act (Cap. 133, 2008 Ed.) is amended —

- (a) by deleting the word “term” in sections 9(5), 36, 57(1)(ia), (ii) and (iv) and 57B(1) and substituting in each case the words “presumptive minimum term”; and
- (b) by deleting the words “section 107(b) or (c)” in section 57(1)(ia)(A) and substituting the words “section 107(1)(b) or (c)”.

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**Amendment of Internal Security Act**

**177.** The Internal Security Act (Cap. 143, 1985 Ed.) is amended —

- (a) by deleting the words “section 103” in section 71 and substituting the words “section 105”; and
- (b) by deleting the words “to 106” in section 75(4) and substituting the words “to 106A”.

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**Amendment of Massage Establishments Act 2017**

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**178.** Part 7 of the Schedule to the Massage Establishments Act 2017 (Act 45 of 2017) is amended —

- (a) by inserting, immediately after item 15, the following items:

“15A. Section 376ED	Sexual activity or image in presence of minor below 16 years of age	20
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15B. Section 376EE	Exploitative sexual activity or image in presence of minor of or above 16 but below 18 years of age”;	
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- (b) by inserting, immediately after item 16, the following items:

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“16A. Section 377BA	Word or gesture intended to insult the modesty of any person	
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16B. Section 377BB	Voyeurism	
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16C. Section 377BC	Distribution of voyeuristic image or recording	30
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16D. Section 377BD	Possession of or gaining access to voyeuristic or intimate image or recording
16E. Section 377BE	Distributing or threatening to distribute intimate image or recording
16F. Section 377BF	Sexual exposure”; and

(c) by inserting, immediately after the words “Section 509” in item 17, the words “(as in force before the date of commencement of section 178 of the Criminal Law Reform Act 2019)”.

### **Amendment of Mental Capacity Act**

**179.** Section 42(6) of the Mental Capacity Act (Cap. 177A, 2010 Ed.) is amended —

- (a) by deleting “\$20,000” in paragraph (a) and substituting “\$40,000”;
- (b) by deleting the words “7 years” in paragraph (a) and substituting the words “14 years”;
- (c) by deleting “\$4,000” in paragraph (b) and substituting “\$8,000”; and
- (d) by deleting the words “4 years” in paragraph (b) and substituting the words “8 years”.

### **Amendment of Mental Health (Care and Treatment) Act**

**180.** Section 7 of the Mental Health (Care and Treatment) Act (Cap. 178A, 2012 Ed.) is amended —

- (a) by deleting the words “to apprehend any person who is reported to be mentally disordered and is” and substituting the words “or special police officer to apprehend any person”;
- (b) by deleting the words “by reason of” and substituting the words “and such danger is reasonably suspected to be attributable to a”; and

(c) by renumbering the section as subsection (1) of that section, and by inserting immediately thereafter the following subsection:

“(2) For the purposes of and without limiting subsection (1) —

5

(a) a police officer’s or special police officer’s reasonable belief that a person is doing or about to do an act which is dangerous to himself is sufficient basis for the police officer’s or special police officer’s reasonable suspicion that the danger to that person is attributable to a mental disorder; and

10

(b) “special police officer” has the same meaning as in section 2 of the Police Force Act (Cap. 235).”.

15

**Amendment of Miscellaneous Offences (Public Order and Nuisance) Act**

**181.** The Miscellaneous Offences (Public Order and Nuisance) Act (Cap. 184, 1997 Ed.) is amended —

20

(a) by inserting, immediately after section 14C, the following section:

**“Communicating false message**

**14D.—(1)** Any person who transmits or causes to be transmitted a message which he knows to be false or fabricated shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both.

25

(2) In subsection (1) —

30

“message” means any sign, signal, writing, image, sound, intelligence or information of any nature transmitted by telecommunications;

“telecommunications” means a transmission, emission or reception of signs, signals, writing, images, sounds or intelligence of any nature by wire, radio, optical or other electro-magnetic systems whether or not such signs, signals, writing, images, sounds or intelligence have been subjected to rearrangement, computation or other processes by any means in the course of their transmission, emission or reception.”;

(b) by deleting subsections (1), (2) and (3) of section 22;

(c) by deleting the word “Every” in section 22(5) and substituting the word “Any”; and

(d) by deleting the section heading of section 22 and substituting the following section heading:

**“Loitering in place, vessel, etc., without satisfactory explanation”.**

### **Amendment of Passports Act**

**182.** Section 42(2) of the Passports Act (Cap. 220, 2008 Ed.) is amended by deleting the word “term” and substituting the words “presumptive minimum term”.

### **Amendment of Police Force Act**

**183.** The Police Force Act (Cap. 235, 2006 Ed.) is amended by inserting, immediately after section 26, the following sections:

#### **“Application of sections 26B, 26C and 26D in attempted suicide cases**

**26A.—**(1) Sections 26B, 26C and 26D apply only where a police officer reasonably suspects that a person is about to or has attempted to commit suicide and where the powers under those sections are reasonably necessary for any of the following purposes:

(a) preventing personal injury, hurt or death to any person;

(b) facilitating an inquiry within the meaning of section 2 of the Coroners Act (Cap. 63A) if death is caused either to the person who attempted suicide or any other person;

(c) preserving evidence for the purpose of any subsequent investigations into or proceedings in relation to any suspected arrestable offence which may be disclosed. 5

(2) For the purposes of this section and sections 26B, 26C and 26D — 10

(a) a reference to a police officer includes a reference to —

(i) a special police officer; and

(ii) a forensic specialist acting in the course of his duty as such in accordance with the written authorisation of the Commissioner under section 65B and the lawful directions of the police officer he assists; 15

(b) “arrestable offence”, “court”, “financial institution”, “place”, “police station” and “property” have the same meanings as in section 2(1) of the Criminal Procedure Code (Cap. 68). 20

**Search by police officer for or of person in suicide or attempted suicide cases**

**26B.—**(1) A police officer may, without a search warrant — 25

(a) search or cause a search to be made in any place for a person if the police officer has reason to believe that the search is necessary for any purpose mentioned in section 26A(1);

(b) search a person and place in safe custody all articles other than necessary wearing apparel found upon that person if the police officer has reason to believe that the search is necessary for any purpose mentioned in section 26A(1). 30

(2) The police officer in subsection (1) must, if reasonably practicable, conduct the search in person.

(3) The provisions of the Criminal Procedure Code (Cap. 68) relating to searches pursuant to search warrants, with the necessary modifications, apply to a search made under this section.

(4) Where a police officer executing any search under this section demands entry or access to a place liable to search under this section, the occupier or any person in charge of the place must allow him free entry or access and provide all reasonable facilities for a search in it.

(5) If free entry or access to that place cannot be obtained under subsection (4), it is lawful in any case for the police officer or other person executing the search to break open any outer or inner door or window of any place or to use any other reasonable means in order to gain entry or access into the place.

### **Search by police officer for document or thing in suicide or attempted suicide cases**

**26C.**—(1) A police officer may, without a search warrant, search or cause a search to be made for a document or other thing in any place if —

(a) the police officer considers the document or thing to be necessary for any purpose mentioned in section 26A(1);

(b) the police officer has reason to believe that the document or thing, which he considers to be necessary for any purpose mentioned in section 26A(1), is likely to be removed; or

(c) it is not known who possesses the document or thing which the police officer considers to be necessary for any purpose mentioned in section 26A(1).

(2) The police officer in subsection (1) must, if reasonably practicable, conduct the search in person.

(3) The provisions of the Criminal Procedure Code relating to searches pursuant to search warrants, with the necessary modifications, apply to a search made under this section.

(4) Where a police officer executing any search under this section demands entry or access to a place liable to search under this section, the occupier or any person in charge of the place must allow the police officer free entry or access and provide all reasonable facilities for a search in it.

5

(5) If free entry or access to that place cannot be obtained under subsection (4), it is lawful in any case for the police officer or other person executing the search to break open any outer or inner door or window of any place or to use any other reasonable means in order to gain entry or access into the place.

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**Powers to seize property in suicide or attempted suicide cases**

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**26D.**—(1) A police officer may seize, or prohibit the disposal of or dealing in, any property.

(2) If the property liable to be seized under subsection (1) is held or suspected to be held in an account or a safe deposit box in a financial institution, a police officer of or above the rank of inspector may, by written order —

20

(a) direct the financial institution to deliver the property to any police officer; or

(b) direct the financial institution not to allow any dealings in respect of the property in such account or safe deposit box for such period as may be specified in the order.

25

(3) A police officer to whom any property has been delivered because of an order under subsection (2)(a) must, as soon as is reasonably practicable, report at a police station his receipt of the property.

30

(4) A police officer may exercise the powers conferred under this section despite any provision in any other law relating to the

seizure of, or the prohibition of any disposal of or dealing in, any property.

(5) Where any property held in an account in a financial institution is subject to an order made under subsection (2)(b) —

5           (a) any interest or other earnings on such account, or any other payments, may be credited into such account after the date on which the written order was made; and

10           (b) any such interest, other earnings or payments is deemed to be subject to that same written order.

(6) Any financial institution which contravenes an order made under subsection (2)(a) or (b) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$3,000.

(7) A court may —

15           (a) subsequent to an order of a police officer made under subsection (2); and

(b) on the application of any person who is prevented from dealing with property,

order the release of such property or any part of such property.

20           (8) The court may only order a release of property under subsection (7) if the court is satisfied that —

25           (a) such release is necessary for the payment of basic expenses, including any payment for foodstuff, rent, the discharge of a mortgage, medicine, medical treatment, taxes, insurance premiums and public utility charges;

(b) such release is necessary exclusively for —

30           (i) the payment of reasonable professional fees and the reimbursement of any expenses incurred in connection with the provision of legal services; or

(ii) the payment of fees or service charges imposed for the routine holding or maintenance of the

property which the person is prevented from dealing in;

(c) such release is necessary for the payment of any extraordinary expenses;

(d) the property is the subject of any judicial, administrative or arbitral lien or judgment, in which case the property may be used to satisfy such lien or judgment, provided that the lien or judgment arose or was entered before the order was made under subsection (2)(b); or

(e) such release is necessary, where the person is a company incorporated in Singapore, for any day-to-day operations of the company.

(9) Part XIX (Disposal of property) of the Criminal Procedure Code applies to the disposal of any property seized under this section with the necessary modifications as if it were property seized in the exercise of any power under that Code.”.

### **Amendment of Public Order and Safety (Special Powers) Act 2018**

**184.** Section 48(2) of the Public Order and Safety (Special Powers) Act 2018 (Act 26 of 2018) is amended by deleting “430, 430A, 431, 431A,” in paragraph (b) and substituting “427,”.

### **Amendment of Radiation Protection Act**

**185.** The Second Schedule to the Radiation Protection Act (Cap. 262, 2008 Ed.) is amended —

(a) by deleting the words “by carrier, etc.” in item 20 and substituting the words “of property entrusted for purposes of transportation or storage”;

(b) by deleting the words “clerk or servant” in item 21 and substituting the word “employees”; and

(c) by deleting the words “or agent” in item 22 and substituting the words “agent, director, officer, partner, key executive or fiduciary”.

### **Amendment of Road Traffic Act**

**186.** The Road Traffic Act (Cap. 276, 2004 Ed.) is amended —

(a) by inserting, immediately after “323,” in section 42(2), “323A,”; and

5 (b) by deleting the word “term” in section 79(2)(a) and substituting the words “presumptive minimum term”.

### **Amendment of Telecommunications Act**

**187.** The Telecommunications Act (Cap. 323, 2000 Ed.) is amended —

10 (a) by repealing section 45; and

(b) by deleting “45,” in section 60(3).

### **Amendment of United Nations Personnel Act**

**188.** The United Nations Personnel Act (Cap. 339A, 2012 Ed.) is amended —

15 (a) by deleting items 15 and 16 of the First Schedule and substituting the following item:

“

15. Section 342	Punishment for wrongful confinement
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”;

20 (b) by deleting the word “by” under the heading “*Description*” in item 31 of the First Schedule and substituting the word “involving”;

(c) by deleting the words “loss or damage of \$500 or above” under the heading “*Description*” in item 4 of the Second Schedule and substituting the words “disruption to key service, etc.”; and

25

(d) by deleting item 5 of the Second Schedule.

**Amendment of Women’s Charter**

**189.** The Women’s Charter (Cap. 353, 2009 Ed.) is amended —

- (a) by inserting, immediately after the words “Parts II to VI” in section 3(2), the words “(except for sections 6A, 6B and 6C)”;
- (b) by deleting the words “section 494 of the Penal Code (Cap. 224)” in section 6 and substituting the words “section 6A”;
- (c) by inserting, immediately after section 6, the following sections:

**“Marrying again during lifetime of husband or wife**

**6A.** Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be guilty of an offence and shall on conviction —

- (a) in a case where the offender concealed from the person with whom the subsequent marriage is contracted the fact of the former marriage, be punished with imprisonment for a term not exceeding 10 years and shall also be liable to a fine not exceeding \$15,000; and
- (b) in any other case, be punished with imprisonment for a term not exceeding 7 years and shall also be liable to a fine not exceeding \$10,000.

*Exceptions.*—This section does not extend to any person whose marriage, with such husband or wife, has been declared void by a court of competent jurisdiction, nor to any person who contracts a marriage during the life of a former husband or wife, if such husband or wife, at the time of the subsequent marriage, has been continually absent from such person for a period of 7 years, and has not been heard of by such person as being alive within that time, provided the person contracting such subsequent marriage,

before the marriage takes place, informs the person with whom the marriage is contracted, of the real state of facts so far as the same are within his or her knowledge.

5           **Cohabitation caused by deceitfully inducing a belief of lawful marriage**

10           **6B.** Any person (*A*), who by deceit causes any person of the opposite sex (*B*) who is not lawfully married to *A* to believe that *B* is lawfully married to *A* and to cohabit or have sexual intercourse with *A* in that belief, shall be guilty of an offence and shall on conviction be punished with imprisonment for a term not exceeding 10 years and shall also be liable to a fine not exceeding \$15,000.

15           **Marriage ceremony gone through fraudulently without lawful marriage**

20           **6C.** Any person who dishonestly or fraudulently goes through the ceremony of being married, knowing that he or she is not as a result lawfully married, shall be guilty of an offence and shall on conviction be punished with imprisonment for a term not exceeding 7 years and shall also be liable to a fine not exceeding \$10,000.”;

(*d*) by deleting paragraph (*b*) of section 17(2AA) and substituting the following paragraph:

25                           “(b) an offence under section 6A or an offence under section 494 of the Penal Code (Cap. 224) as in force immediately before the date of commencement of section 189 of the Criminal Law Reform Act 2019.”;

30           (*e*) by deleting the words “by way of marriage” in section 140(1)(*i*) and substituting the words “with a girl who is his spouse and with his spouse’s consent”;

35           (*f*) by deleting the words “Subject to subsection (5) and notwithstanding anything in” in section 140(4) and substituting the word “Despite”;

- (g) by deleting subsection (5) of section 140; and
- (h) by deleting subsection (1) of section 145 and substituting the following subsection:

“(1) Any person who causes or encourages the prostitution of a girl below the age of 18 years, or the commission of unlawful sexual penetration of or an indecent assault on, a girl below the age of 16 years, being in either case a girl for whom that person is responsible, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 3 years or to both.”;

- (i) by deleting the words “16 years” in section 145(5) and substituting the words “16 or 18 years, as the case may be,”;
- (j) by inserting, immediately after the words “prostitution of,” in the section heading of section 145, the words “girl below the age of 18 or”; and
- (k) by deleting “309,” in section 155(1).

**Amendment of Work Injury Compensation Act**

**190.** Section 3(5) of the Work Injury Compensation Act (Cap. 354, 2009 Ed.) is amended by deleting the words “to 106” in paragraph (c)(i) and substituting the words “to 106A”.

**Saving and transitional provisions**

**191.—**(1) Section 2, 25 or 26 (as the case may be) does not apply to any offence committed before the respective date of commencement of that section.

(2) Where at any time before the date of commencement of section 116, a person met or communicated with another person only on one previous occasion before the happening of an event mentioned in section 376E(1)(a) of the Penal Code as in force immediately before that date, no offence under section 376E of the Penal Code as

amended by section 116 is committed regardless when that event takes place.

5 (3) However, where at any time before the date of commencement of section 116, a person (*A*) met or communicated with another person on at least 2 previous occasions before the happening of an event mentioned in section 376E(1)(*a*) of the Penal Code as in force immediately before that date, section 376E of the Penal Code as in force immediately before that date continues to apply to *A* as if section 116 had not been enacted if that event occurs on or after that date.

10 (4) Where a person who is convicted on or after the date of commencement of section 153 of an offence under section 449, 450, 451 or 452 of the Penal Code which is committed on or after that date, has a prior conviction for an offence under the repealed section 454, 15 455, 457 or 458 of the Penal Code as in force immediately before that date, the person shall be punished with caning in addition to the punishment prescribed for section 449, 450, 451 or 452 of the Penal Code (as the case may be) because of section 458A of the Penal Code as amended by section 153.

20 (5) Despite section 169(3), Part I of the Fourth Schedule to the Criminal Procedure Code as in force immediately before the date of commencement of section 169(3)(*d*) and (*e*) continues to apply with respect to an offence under the repealed sections 427, 448 and 511 of the Penal Code which is committed before the date of commencement 25 of sections 141, 146 and 167, respectively.

30 (6) For a period of 2 years after the date of commencement of any provision of this Act, the Minister may, by regulations, prescribe such additional provisions of a saving or transitional nature consequent to the enactment of that provision as the Minister may consider necessary or expedient.

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## EXPLANATORY STATEMENT

This Bill seeks to amend the Penal Code (Cap. 224), the Criminal Procedure Code (Cap. 68), the Children and Young Persons Act (Cap. 38), the Women’s Charter (Cap. 353) and certain other Acts to update the criminal offences, keep up with technological changes and emerging crime trends, enhance protection for minors and vulnerable victims, harmonise the criminal laws and update the sentencing framework.

The Bill also makes related and consequential amendments to the Criminal Procedure Code, the Evidence Act (Cap. 97) and certain other Acts.

Clause 1 relates to the short title and commencement.

### PART 1

#### AMENDMENTS TO PENAL CODE

Part 1 (clauses 2 to 168) amends the Penal Code. Unless the context otherwise requires, any reference in this Explanatory Statement to a section, Part, Division or Schedule by number only, and not in conjunction with the short title of an Act, is a reference to the section, Part, Division or Schedule of that number contained in the Penal Code.

Clause 2 inserts new sections 4A and 4B.

The new section 4A extends the application of the offences in Chapters VI (Offences against the State) and VIB (Genocide) to acts and omissions by Singapore citizens and permanent residents outside Singapore. Singapore citizens and permanent residents who commit such offences outside Singapore can be prosecuted and tried in Singapore.

The new section 4B is to be read with the new Schedule. The new Schedule specifies offences under which the Singapore courts will have jurisdiction where any physical element of the offence that takes the form of a relevant event occurs in Singapore or where a fault element of the offence is to make a gain or cause a loss or exposure to a risk of loss or cause harm to any person in body, mind, reputation or property, and that gain, loss or harm occurs in Singapore.

Clause 3 makes technical and consequential amendments to section 6.

Clause 4 inserts a new section 6A to provide that the definitions in the new sections 22A to 26H (except for “dishonestly” and “fraudulently”) apply to offences in other written law in addition to offences in the Penal Code.

Clause 5 amends the definition of “public servant” in section 21 to expand the definition to cover —

- (a) officers and employees of body corporates established by a public Act for a public function (commonly called statutory boards); and

- (b) persons who are employed by contractors engaged to perform certain duties on behalf of the Government or a statutory board, such as law enforcement functions and escorting persons in remand and prisoners.

Clause 6 repeals and re-enacts section 22 to set out a comprehensive definition of “property” which will cover intangible and incorporeal property. The definitions are similar to those in the Interpretation Act (Cap. 1) except that virtual currency such as cryptocurrency will be included in the definition of “property”.

The clause also inserts a new section 22A which will introduce new definitions of “fault element” and “physical element” (sometimes known as *mens rea* and *actus reus* elements, respectively). Definitions of the various fault elements will either be clarified or codified.

Clause 7 repeals and re-enacts sections 23, 24 and 25 to insert new definitions of “wrongful gain” and “wrongful loss”, “dishonestly” and “fraudulently”. The new definitions of “wrongful gain” and “wrongful loss” in section 23 will include the wrongful avoidance of a loss or exposure of another to the risk of loss.

The new definition of “dishonestly” in section 24 will include situations where the wrongful gain or wrongful loss is dishonest by the ordinary standards of reasonable and honest persons, and the offender knows that the act is dishonest by such standards. It also explicitly covers both temporary and permanent gain and loss.

The new definition of “fraudulently” in section 25 will codify the common law definition of “fraudulently” in *Law Society of Singapore v Nor 'ain bte Abu Bakar and others* [2008] SGHC 169. The case held that “a person is said to do a thing with intent to defraud if he does that thing with the intention to deceive some person and by means of such deception, that an advantage should accrue to or detriment should befall some person”.

Clause 8 inserts new sections 26A to 26H. The current definitions of “voluntarily” in section 39 and “good faith” in section 52 are re-enacted substantially unchanged as the new sections 26A and 26B, respectively, so that they are located together with the other sections on the fault elements.

The fault elements of “intentionally”, “knowingly”, “rashly”, “negligently”, “transferred fault” and “strict liability” are defined in the new sections 26C to 26H, respectively.

The words “real risk” in the new section 26E (which is relevant to the definition of “rashly”) means a risk of adverse consequences arising from one’s conduct that is not “merely theoretical or fanciful” as explained in *Public Prosecutor v Hue An Li* [2014] SGHC 171 at [65].

The new section 26H codifies the common law definition of “strict liability”. Under the common law, a strict liability offence is one which does not have any

fault elements that need to be proven to establish liability. However, case law has established that a common law defence of reasonable care applies to strict liability offences. In a prosecution for a strict liability offence, it is a defence for the accused person to prove that in doing anything or omitting to do anything specified in the offence, the accused exercised reasonable care.

Clause 9 amends section 30 to extend the definition of “valuable security” to include electronic records with a new *Illustration* relating to electronic bills of lading.

Clause 10 amends section 33 to clarify that the physical elements of an offence can be constituted by a series of acts. This would especially be relevant in the context of homicide where it is not clear which injury out of a series of multiple injuries inflicted on a victim caused the victim’s death.

Clause 11 repeals section 39 on the definition of “voluntarily” which will be re-enacted as the new section 26A in order to locate it together with the other related provisions on the fault elements of an offence.

Clause 12 makes a consequential and technical amendment to section 40.

Clause 13 inserts a new section 44A to clarify that the words “bodily injury” denotes as well a series of bodily injuries as a single bodily injury.

Clause 14 repeals section 52 on the definition of “good faith” which will be re-enacted as the new section 26B in order to locate it together with the other related provisions about fault elements of an offence.

Clause 15 repeals and re-enacts section 73 for the following purposes:

- (a) to change the term from “domestic maid” to “domestic worker” but the definition remains the same;
- (b) to extend the enhanced punishment for offences against domestic workers to cover all offences in the Penal Code which could be committed against an individual person;
- (c) to increase the enhancement of maximum punishments for such offences from one-and-a-half to 2 times except where the offence is punishable with death or imprisonment for life;
- (d) to expand the scope of offenders caught by the enhanced punishments under section 73 to include employment agents of domestic workers.

Clause 16 makes technical amendments to section 74(2) and (3).

Clause 17 amends section 74A for the following purposes:

- (a) to extend the enhanced punishment for offences against vulnerable persons to cover all offences in the Penal Code which could be committed against an individual;

- (b) to increase the enhancement of maximum punishments for such offences from one-and-a-half to 2 times except for section 376F and offences punishable with death or imprisonment for life;
- (c) to change the term from “vulnerable adult” to “vulnerable person” and remove the age requirement of at least 18 years old. The threshold of vulnerability will also be lowered from “incapable of protecting themselves from abuse, neglect or self-neglect” to “substantially unable to protect themselves from abuse, neglect or self-neglect”. This would cover situations where victims may be capable of caring for their day-to-day affairs, but could be more susceptible to crime and abuse due to some mental or physical disability or infirmity.

Clause 18 inserts new sections 74B to 74E.

The new section 74B provides for enhanced maximum punishments up to twice the maximum punishment for offences under the Penal Code committed against children below 14 years of age unless there is already an enhanced or mandatory minimum sentence provided for or if the punishment is death or life imprisonment.

The new sections 74C and 74D provide for enhanced maximum punishments for offences under Chapter XVI committed against a person who was in an intimate or a close relationship with the offender, respectively, except where the offence is punishable with death or imprisonment for life.

The new section 74E clarifies that if 2 or more of the enhanced punishment provisions in sections 73 to 74D can apply to the same offence, only one provision will apply. Those provisions will also not enhance a specified minimum sentence or mandatory minimum sentence of imprisonment or caning.

Clause 19 repeals section 75 as this section is of limited application today. Persons who commit repeat offences may be sentenced to corrective training and preventive detention under section 304 of the Criminal Procedure Code.

Clause 20 repeals and re-enacts section 76 to set out the defence of acts done by a person bound by law or justified by law in a standalone provision, separate from the defence of “mistake of fact”.

Clause 21 repeals and re-enacts section 79 to set out the defence of “mistake of fact” in a standalone provision, separate from the defence of “mistake of law”. This defence will apply to all offences, except where expressly excluded by any written law. The amendment will also clarify that the defence applies to both mistake of fact and ignorance of fact. It is also clarified to avoid doubt that when a mistake of fact or ignorance of a fact negates the fault element required to establish liability under an offence, then the offence is not made out.

Clause 22 inserts a new section 79A to preserve the general exclusionary rule at common law that a mistake of law or ignorance of the law does not provide a defence to a criminal charge.

It is also clarified to avoid doubt that if a mistake of law negates the fault element required to establish liability under an offence, then that offence is not made out.

Clause 23 amends section 80 on the defence of accident to remove the words “and without any criminal intention or knowledge”. The phrase is redundant in light of the requirement that the accident must arise in the doing of a lawful act in a lawful manner and by lawful means. An explanation is also added to clarify that the phrase “lawful act” means “any act that is not an offence or which is not prohibited by law”. It is also clarified to avoid doubt that when the facts which are relied upon to establish this defence will, when proven, negate the fault element required to establish liability under an offence, then it is not required to rely on the defence.

Clause 24 amends section 81 on the defence of necessity to remove the condition that the act be done “without any criminal intention to cause harm”. The proviso, if extended to oblique intention (i.e. intention constituted by foresight of an outcome with virtual certainty) to cause harm in order to prevent other harm, may render the defence unworkable because it may be excessively wide.

Clause 25 amends section 82 to raise the minimum age of criminal responsibility from 7 to 10 years. A child below 10 years of age will not be capable of committing a criminal offence.

Clause 26 amends section 83 which is consequential to the raising of minimum age of criminal responsibility to 10 years. A child of or above 10 years of age but below 12 years, who has not attained sufficient maturity of understanding to judge the nature and consequence of his conduct on that occasion does not commit a criminal offence.

Clause 27 repeals and re-enacts section 84 on the defence of “unsoundness of mind”. The defence of unsoundness of mind is expanded to include cases where the accused person by reason of the mental disorder was completely deprived of any power to control his actions. The amendment also clarifies that the defence is not available to an accused person if he or she is capable of knowing that what he or she is doing is either wrong by the ordinary standards of reasonable and honest persons or wrong as being contrary to law.

Clause 28 amends section 85 on the defence of intoxication so that an accused person can only rely on the defence if the state of intoxication was caused without the knowledge or against the will of the person charged.

Clause 29 amends section 86(1) so that it applies to the accused person suffering from an intoxication-induced mental disorder having a degree of

permanence which requires treatment. Section 86(2) is also amended to provide that intoxication must be taken into account in determining the accused's "knowledge" or "belief" in addition to just "intention". This addresses the anomaly mentioned in *Juma'at bin Samad v Public Prosecutor* [1993] SGHC 145 at [21]. This includes the law articulated at [22] of *Juma'at* that the burden of proof falls on the accused person to prove on a balance of probabilities that he was so intoxicated that he did not form the necessary intention for the offence. The amendment does not change the law reflected in *Juma'at* in other respects.

Clause 30 makes technical amendments relating to the Chapter headings and sub-headings relating to the right of private defence.

Clause 31 makes a consequential amendment to section 97 to renumber the cross-references.

Clause 32 repeals and re-enacts sections 98 to 106 and introduces a new section 106A. These sections re-organise the provisions on the right of private defence into 2 broad categories of the right of private defence of person and defence of property. The condition of "time to have recourse to the protection of the public authorities" is rephrased as "reasonable opportunity to have recourse to the protection of a public authority in the circumstances" (new section 98(2)). The "reasonable apprehension of danger" test in private defence is recast as a subjective-objective test, i.e. the defender reasonably believed that certain danger existed or certain consequences would result or were intended from the actions of the victim. The common law requirement that the use of force in private defence must be "reasonably necessary in the circumstances" and not merely necessary is also codified. The new section 102(c) will provide that defensive deadly force will be allowed for assaults with the intention of committing the offence of rape which has been expanded in section 375 or causing such rape to be committed. The new section 102(d) will provide that defensive deadly force will be allowed for assaults with the intention of committing penile penetration of the vagina, anus or mouth as described in section 376(1) or (2).

Clause 33 amends section 107 to clarify that inchoate liability can arise for impossible abetments, i.e. abetment of an act of which the person is unaware is impossible.

Clause 34 amends section 115 to increase the punishments in that section.

Clause 35 repeals and re-enacts section 116 to provide that the prescribed punishment for abetment of principal offences which were not actually committed will be the same as the punishment for the offence abetted. The exception to this general rule is that where the offence abetted is punishable with death or life imprisonment, the abettor is liable to be punished with up to 20 years' imprisonment, fine or caning. The court is also not bound to impose sentences for the principal offences which are fixed by law, a specified minimum sentence or a mandatory minimum sentence.

Clause 36 repeals and re-enacts sections 120A and 120B.

The new section 120A clarifies that criminal conspiracies cover conspiracies in Singapore to commit offences outside Singapore (which would be an offence if committed in Singapore) and conspiracies outside Singapore to commit offences in Singapore. A person may be a party to a criminal conspiracy even though any other party to the conspiracy does not intend to carry out the agreement to commit the offence or cause the offence to be committed.

The new section 120B provides for the punishment for criminal conspiracy where no express provision is made in the Code for such punishment.

Clauses 37 to 45 amend sections 121, 121A, 121B, 122, 124, 125, 128, 130 and 131, respectively, to remove the punishment of fine when life imprisonment is imposed.

Clause 46 amends section 132 to remove the punishment of fine if the punishment imposed is life imprisonment or death.

Clause 47 amends section 136 to repeal the marital exception to a wife for harbouring her husband who is a deserter from the Singapore Armed Forces or any visiting forces lawfully present in Singapore. A requirement is also inserted that the accused person must have harboured the deserter with the intention of preventing the deserter from being apprehended.

Clause 48 amends section 137 to clarify that the punishment prescribed is mandatory being the only punishment prescribed in that section.

Clause 49 amends section 157 to insert a requirement that the accused person must have harboured the potential members of an unlawful assembly with the intention of permitting or facilitating them to join or become members of an unlawful assembly or screening them or any of them from punishment.

Clause 50 amends section 172 to update the punishment in that section relating to absconding to avoid arrest on warrant or service of summons, etc., proceeding from a public servant.

Clause 51 repeals and re-enacts sections 173 to 177 relating to offences with respect to contempt of the lawful authority of public servants to update the punishments for most of the offences in those sections and to provide for a higher punishment if the offence is one which may be committed by a corporation or other corporate entity.

Clause 52 amends section 178 to increase the amount of fine.

Clause 53 repeals and re-enacts section 179 relating to refusing to answer a public servant authorised to question to update the punishment and to provide for a higher punishment if the offence is one which may be committed by a corporation or other corporate entity.

Clause 54 amends section 182 to update the punishment in the section relating to offences with respect to contempt of the lawful authority of public servants.

Clause 55 repeals and re-enacts sections 183 to 188 relating to offences with respect to contempt of the lawful authority of public servants to update the punishments in those sections and to provide for a higher punishment if the offence is one which may be committed by a corporation or other corporate entity.

Clause 56 amends section 194 to remove the punishment of fine if the punishment imposed is life imprisonment.

Clause 57 amends section 195 to remove the punishment of fine if the punishment imposed is life imprisonment and to provide for a maximum 20 years' imprisonment sentence if the offender gives or fabricates false evidence, intending to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which is punishable with life imprisonment.

Clause 58 makes a technical amendment to the cross-references in section 203.

Clause 59 repeals and re-enacts section 204A on obstructing, preventing, perverting or defeating the course of justice to widen the fault element from intention to knowledge that the accused person's act is likely to have the effect of obstructing, preventing, perverting or defeating the course of justice. This is to prevent technical defences concerning intention where an act has been committed that objectively obstructs or perverts the course of justice.

Clause 60 repeals section 209 (Fraudulently or dishonestly making a false claim before a court of justice) as it is no longer relevant today as observed by the High Court in *Bachoo Mohan Singh v Public Prosecutor* [2010] SGCA 25.

Clause 61 amends section 212 to repeal the marital exception to a person for harbouring or concealing his or her spouse who has committed certain offences with the intention of screening him or her from legal punishment. Two *Illustrations* have been inserted to clarify that a spouse will not be guilty of harbouring if he or she provided food and shelter to his or her spouse without the requisite intention to screen the spouse from punishment.

Clause 62 amends section 216 to repeal the marital exception to a person for harbouring or concealing his or her spouse who has escaped from custody or whose apprehension has been ordered with the intention of preventing the spouse from being apprehended.

Clause 63 amends section 216A to repeal the marital exception to a person for harbouring his or her spouse with the intention of facilitating the commission by the spouse of robbery or gang-robbery or of screening the spouse from legal punishment.

Clause 64 makes a technical amendment to the heading to Chapter XII.

Clause 65 repeals sections 230 to 254A on offences relating to coins and current coins. These offences will be subsumed and combined in Chapter XVII with offences relating to currency and bank notes.

Clause 66 repeals the whole of Chapter XIII on offences relating to weights and measures (sections 264 to 267) to avoid unnecessary overlap with other offences in the Code or other Acts. The circumstances in which the offences in these sections would be made out would be caught by the Weights and Measures Act (Cap. 349) or other cheating or fraud offences in the Code.

Clause 67 inserts new sections 268A, 268B and 268C.

The new section 268A creates an offence of transmission or communication of false information of the presence of any thing that is likely to cause hurt or damage to property by a person who knows that such information is false or fabricated. A related amendment will be made to repeal section 45 of the Telecommunications Act (Cap. 323) which contains a similar provision (see clause 187).

The new section 268B creates an offence of placing or sending without reasonable excuse any thing with the intention of inducing a belief that the thing is likely to cause hurt or damage to property by any means.

The new section 268C creates a similar offence to the new section 268B except that the fault element is of lower culpability namely only knowledge of a real risk that it will cause belief of harm rather than intention to induce a belief of harm. The maximum punishment for this offence is accordingly lower than that for the new section 268B.

Clauses 68 and 69 amend sections 272 and 273, respectively, to enhance the penalties for offences relating to adulterated food.

Clauses 70, 71 and 72 amend sections 274, 275 and 276, respectively, to enhance the penalties for offences relating to adulterated drugs.

Clause 73 amends section 277 to enhance the penalties for offences relating to fouling the water of a public spring or reservoir.

Clause 74 amends section 278 to enhance the penalties for offences relating to making the atmosphere noxious to health.

Clause 75 repeals and re-enacts sections 284 to 289.

The new section 284 is re-enacted to create the offence of rash or negligent conduct or omission to take sufficient safeguards, with respect to any dangerous or harmful substance, that endangers human life, or is likely to or results in certain harmful consequences. The punishments are enhanced for situations where the negligent or rash conduct causes hurt, grievous hurt or death.

The new section 285 is re-enacted to create the offence of causing or contributing to the risk of dangerous fire that results in certain harmful consequences. The punishments are calibrated in accordance with the degree of harm or risk of harm caused. The punishments are enhanced for situations where the fire causes hurt, grievous hurt or death.

The new section 286 is re-enacted to introduce a new rebuttable presumption that a person substantially contributed to the risk of causing fire where that person throws a cigarette, cigar, match stick, charcoal, incense, or any form of embers or any thing that is likely to cause fire in any place, and a fire occurs at that place or in the vicinity of that place within 60 minutes from the time of that act.

The new section 287 is re-enacted to provide for enhanced punishments where the negligent or rash conduct with respect to machinery in the possession or care of the offender endangers human life or results in certain harmful consequences such as hurt, grievous hurt or death. The punishments are enhanced for situations where the negligent or rash conduct causes hurt, grievous hurt or death.

The new section 288 is re-enacted to provide for enhanced punishments for failure to take sufficient safeguards against any probable danger to human life or results in death with respect to the pulling down or repairing of any building.

The new section 289 is re-enacted to provide for enhanced punishments for failure to take sufficient safeguards against any probable danger to human life or results in grievous hurt or death from an animal in a person's possession.

Clause 76 repeals and re-enacts section 290 to enhance the penalties for offences relating to public nuisance including introducing a discretionary sentence of imprisonment for repeat offenders and offenders who knew that their act of public nuisance will cause or will probably cause any common injury, danger or annoyance to the public, or to the people in general who dwell or occupy property in the vicinity.

Clause 77 amends section 292 to provide for enhanced punishment where the obscene object depicts or is implied to depict the image of a minor below 16 years of age.

Clause 78 inserts a new section 292A that creates a new offence of possession, importation, distribution, etc., of a child sex-doll.

Clause 79 amends section 294 on obscene songs to update the archaic language.

Clause 80 makes the following amendments to section 300 in relation to the partial defences to murder:

- (a) insert in proviso (b) to *Exception 1* a requirement that the offender did not know and had no reason to believe that the provocation was given

- by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant;
- (b) amend the *Explanation* to *Exception 1* to codify the test of “the ordinary person of the same gender and age as the offender” for determining whether the provocation was grave and sudden enough to prevent the offence from amounting to murder;
  - (c) insert a new *Explanation 2* to *Exception 1* to clarify that grave and sudden provocation may be in the form of words, gestures or conduct or any combination of words, gestures or conduct;
  - (d) insert a new *Illustration* to *Exception 1* to clarify that cumulative provocation over a period of time may amount to grave provocation;
  - (e) delete the phrase “in good faith” from *Exception 2* as it has caused difficulties in interpretation and as the defence in *Exception 2* already contains other pre-requisites which are sufficient to exclude undeserving cases;
  - (f) insert a new *Explanation* to *Exception 2* to clarify that the word “premeditation” relates to the fault elements for murder under section 300;
  - (g) insert a new proviso to *Exception 3* that the offender did not know and had no reason to believe that the person whose death was caused was acting in obedience to the law, or was a public servant acting in the lawful exercise of the powers of such public servant;
  - (h) insert a new *Explanation 2* to *Exception 4* to clarify that the word “fight” includes the exchange of blows even if the blows do not land on their target and includes a single blow or punch;
  - (i) insert a new *Explanation 3* to *Exception 4* to clarify that the word “premeditation” relates to the fault elements for murder under section 300;
  - (j) insert a new *Explanation 4* to *Exception 4* to clarify that a quarrel does not require verbal exchange of words;
  - (k) insert new *Illustrations* to *Exception 4* to exemplify situations where the partial defence of sudden fight is not available;
  - (l) repeal and re-enact the *Illustration* to *Exception 5* (Consent) as the current *Illustration* appears to suggest that a person who has committed suicide has murdered himself;
  - (m) amend *Exception 7* to define diminished responsibility in terms of an abnormality of mind that substantially impaired the offender’s capacity (a) to know the nature of the acts or omissions or (b) to

judge whether such acts or omissions are wrong (whether wrong by the ordinary standards of reasonable and honest persons or as contrary to law); or (c) that impaired the offender's power to control his acts or omissions.

Clause 81 amends section 301 by renumbering the section as subsection (1) and by inserting a new subsection (2) to clarify for the avoidance of doubt that the accused person may rely on certain defences and exceptions.

Clause 82 amends section 304(b) to enhance the imprisonment punishment for culpable homicide without intention to cause death, or to cause such bodily injury as is likely to cause death.

Clause 83 inserts new sections 304B and 304C.

The new section 304B creates a new offence of causing the death of any child below 14 years of age, domestic worker or vulnerable person by sustained abuse. The term "sustained abuse" is defined to mean a course of conduct which consists of voluntarily causing hurt or knowingly causing neglect or both, of the victim on 2 or more occasions or on a single occasion if the conduct is protracted.

The new section 304C creates a new offence of causing or allowing the death of a child below 14 years of age or vulnerable person in the same household.

Clause 84 repeals and re-enacts section 305 to enhance the punishment for abetment of suicide or attempted suicide of a minor below 18 years of age or a person who lacks mental capacity. It also replaces certain archaic phrases and introduce an additional requirement that the abettor knew or had reason to believe that the person who attempted or committed suicide was below 18 years of age or lacked mental capacity.

Clause 85 amends section 306 to make it an offence to abet attempted suicide in addition to abetment of suicide, even though attempted suicide will no longer be an offence.

Clause 86 amends section 307 to provide that attempted murder can only be committed if the accused person had the intention to cause death and not merely knowledge that death is likely to be caused and to remove the punishment of fine if the punishment imposed is life imprisonment.

Clause 87 amends section 308 to provide that attempted culpable homicide can only be committed if the accused person had the intention to cause death and not merely knowledge that death is likely to be caused.

Clause 88 inserts new sections 308A and 308B.

The new section 308A creates a new offence of causing death in furtherance of a group's common object. A person who is or acts as a member of a group commits an offence if he or she knows that the group has a common object to commit an offence or that a weapon is likely or will be used in any manner against another

person; and subsequently the death of that other person is caused in furtherance of the group's object.

The new section 308B creates a new offence of intentional concealment, desecration or disposal of a human corpse which has the effect of impeding or preventing the discovery or identification of the corpse or criminal investigations or prosecutions.

Clause 89 repeals section 309 to abolish the offence of attempted suicide.

Clause 90 amends section 310 to replace the word "wilful" with "intentional".

Clause 91 amends section 311 to remove the punishment of fine if the punishment imposed is life imprisonment.

Clause 92 amends section 312 on causing miscarriage to replace the archaic language "quick with child" with the phrase "pregnancy is of more than 16 weeks' duration as calculated in accordance with section 4 of that Act" (namely the Termination of Pregnancy Act (Cap. 324)).

Clause 93 amends section 313 to remove the punishment of fine if the punishment imposed is life imprisonment.

Clause 94 amends section 315(1) to replace the word "wilful" with "intentional".

Clause 95 makes a technical amendment to section 323 consequential to the new section 323A and to increase the term of imprisonment to allow for the full spectrum of aggravating factors to be taken into account across the entire sentencing range.

Clause 96 inserts a new section 323A which creates a new offence of voluntarily causing hurt which results in grievous hurt being caused instead. This offence operates where there was no intention to cause grievous hurt. A similar offence in section 334A is also created (see clause 103).

Clause 97 makes an amendment to section 324 to replace the word "deleterious" with the word "harmful".

Clause 98 makes a technical amendment to section 325 consequential to the new sections 323A and 334A and to increase the term of imprisonment.

Clause 99 amends section 326 to remove the punishment of fine if the punishment imposed is life imprisonment.

Clause 100 amends section 328 to replace the phrase "unwholesome drug or other thing" with the phrase "any substance which it is harmful to the human body to inhale, to swallow, or to receive into the blood" to clarify the intent of the provision, which is only to criminalise the use of substances that are intoxicating or harmful to the human body.

Clause 101 amends section 332 on voluntarily causing hurt to a public servant to provide that an imprisonment term must be imposed unless there are exceptional circumstances.

Clause 102 amends section 334 to enhance punishments for voluntarily causing hurt on provocation.

Clause 103 inserts a new section 334A which is similar to the new section 323A of voluntarily causing hurt on grave and sudden provocation which results in grievous hurt being caused instead. This offence operates where there was no intention to cause grievous hurt.

Clause 104 inserts new sections 335A and 335B.

The new section 335A provides for an offence of allowing the neglect or sexual abuse of, the hurt or grievous hurt to, or any injury to the mental health of, a domestic worker or vulnerable person, where the accused person knew or had reason to believe that the victim was at risk of such neglect, sexual abuse, hurt, grievous hurt, or injury to mental health caused by another person. In the case of a domestic worker, this offence applies to the employer, a member of the employer's household or an employment agent of the domestic worker. In the case of a vulnerable person, this offence applies to a person who has the custody, charge or care of the vulnerable person.

The new section 335B provides for an offence of doing any act, that endangers human life or the personal safety of others, with the knowledge or belief that such act is likely to cause death.

Clause 105 amends section 342 to increase the maximum punishment for wrongful confinement in the light of the repeal of sections 343 and 344 (see clause 106).

Clause 106 repeals sections 343 and 344 as the periods of 3 days' and 10 days' wrongful confinement as aggravating factors for punishment are arbitrary. With the repeal, wrongful confinement offences will fall under section 342 which will have an increased punishment equivalent to that under section 344.

Clause 107 amends section 361 on kidnapping from lawful guardianship to abolish the age differences for male and female victims so that all minors below 16 years of age are protected regardless of gender.

Clause 108 amends section 367 to include non-consensual penile penetration of the mouth in addition to such penetration of the anus as an element of the offence of kidnapping or abducting in order to subject a person to grievous hurt, slavery, etc.

Clause 109 repeals section 369 on kidnapping or abducting a child below 10 years of age with intent to steal movable property from the child. This offence is of limited relevance today and in any case would be covered under section 361

(Kidnapping from lawful guardianship) punishable under section 363, which carries the same punishment.

Clause 110 amends section 375 to extend the scope of rape to penile penetration of a woman's or a man's anus or mouth. The limited marital immunity to rape in section 375(4) is also abolished. The amendment will also introduce enhanced punishment for exploitative rape of a minor below 14 years of age. A defence will be provided for sexual penetration of a spouse below 14 years of age with the spouse's consent. However, this should be read with section 90(c) which provides that a person below 12 years of age cannot provide consent.

Clause 111 amends section 376 to expand the offence of non-consensual sexual penetration to include situations where a woman forces a man to sexually penetrate her vagina, anus, or mouth. The section will no longer catch penile penetration of a woman's or a man's anus or mouth as this offence will be caught under section 375. The amendment will also introduce enhanced punishment for exploitative penetrative sexual activity with a minor below 14 years of age. A defence will be provided for sexual penetration of a spouse below 14 years of age with the spouse's consent. However, this should be read with section 90(c) which provides that a person below 12 years of age cannot provide consent.

Clause 112 amends section 376A to clarify that section 376A (Sexual penetration of minor under 16) does not cover sexual activity for minors below 16 years of age where the minor did not consent. The upper ranges of the prescribed sentences for an offence under that section will therefore apply to consensual sexual penetration of minors below 16 years of age with higher maximum punishments where the minors are below 14 years of age. The amendment also introduces enhanced punishment for exploitative penetrative sexual activity with minors at least 14 but below 16 years of age. The limited marital immunity to sexual penetration under section 376A(5) is also repealed. A defence will be provided for sexual penetration of a spouse below 16 years of age with the spouse's consent. However, this should be read with section 90(c) which provides that a person below 12 years of age cannot provide consent.

Clause 113 inserts a new section 376AA to create a new offence of exploitative penetrative sexual activity with a minor who is at least 16 but below 18 years of age. The new offence criminalises cases where penetrative sexual activity with minors at least 16 but below 18 years of age is obtained through exploitation.

Clause 114 amends section 376B(4) to extend the scope of the offence beyond sexual penetration to sexual touching.

Clause 115 amends section 376C(2) to extend the extra-territorial application of section 376B to more situations. The amendments do not substantively change the punishment, which does not involve mandatory imprisonment.

Clause 116 amends section 376E (Sexual grooming) so that the number of instances of prior contact is reduced from 2 to one, and the section is extended to

cover the scenario where the minor travels to a meeting initiated or agreed to by the offender. The punishment for offences will be tiered with enhanced punishments for offences against minors below 14 years of age.

Clause 117 inserts new sections 376EA to 376EE.

The new section 376EA creates the new offence of exploitative sexual grooming of a minor who is at least 16 but not 18 years old. The offence is similar to section 376E but there is an additional requirement that the offender must be in an exploitative relationship with the minor.

The new section 376EB creates the new offence of sexual communication with a minor below 16 years of age. The offences in sections 376EB and 376ED do not apply to consensual communications between spouses.

The new section 376EC creates a new offence of exploitative sexual communication with a minor who is at least 16 but not 18 years old. The offence is similar to section 376EB but there is an additional requirement that the offender must be in an exploitative relationship with the minor.

The new section 376ED creates a new offence of engaging in sexual activity before a minor below 16 years of age, or causing a minor below 16 years of age to look at a sexual image. The offence in section 376ED does not apply to a consensual act by a person in relation to a minor who is his or her spouse.

The new section 376EE creates a new offence of engaging in sexual activity before a minor who is at least 16 but not 18 years old. The offence is similar to section 376ED but there is an additional requirement that the offender must be in an exploitative relationship with the minor.

Clause 118 amends section 376F (Procurement of sexual activity with person with mental disability) to abolish marital immunity for the offence, and to provide that for situations involving married couples, only consent for sexual activity obtained by threat or deception (but not inducement) would be criminalised. An amendment is made to also include situations where the offender incites or procures the victim to touch the offender's body or another person's body (including the victim's own body).

Clause 119 repeals and re-enacts section 376G (Incest) to exclude instances of non-consensual sexual penetration and instances of sexual penetration of minors below 16 years of age. Such conduct will constitute offences under other sections of the Code such as section 375 (Rape) and section 376 (Sexual assault by penetration). The section is also amended to make the elements gender-neutral. An explanation is also added to this section to clarify that the offence of incest will not apply to victims of the new exploitative penetrative sexual activity offence (new section 376AA).

The clause also inserts a new section 376H to create a new offence of procurement of sexual activity by deception or false representation relating to the

use of a sexually protective device such as a contraceptive device or the presence of a sexually transmitted disease.

Clause 120 inserts new sections 377BA to 377BN.

The new section 377BA is a re-enactment of section 509 on insulting the modesty of a woman to locate this offence with other sexual offences and to make it gender-neutral so that it applies to men as well as women.

The new section 377BB introduces a new offence of voyeurism.

The new section 377BC introduces a new offence of distribution of voyeuristic images or recordings.

The new section 377BD introduces a new offence of possession of or gaining access to voyeuristic or intimate images or recordings.

The new section 377BE introduces a new offence of distributing or threatening to distribute intimate images or recordings of another person without consent, knowing or having reason to believe that it will or is likely to cause the victim humiliation, distress or alarm.

The new section 377BF introduces a new offence of sexual exposure of the offender's genitals for the purpose of obtaining sexual gratification or of causing the victim humiliation, distress or alarm. It is also an offence for the offender to send an image of his or another person's genitals to the victim for this purpose.

The new section 377BG introduces a new offence of using or involving a child below 16 years of age in the production of child abuse material.

The new section 377BH introduces a new offence of producing child abuse material.

The new section 377BI introduces a new offence of distributing or selling child abuse material.

The new section 377BJ introduces a new offence of advertising or seeking child abuse material.

The new section 377BK introduces a new offence of possession of or gaining access to child abuse material.

The new section 377BL introduces a new offence of exploitation by abusive material of a minor who is at least 16 but not 18 years old where the offender and the minor are in an exploitative relationship.

The new section 377BM sets out certain defences to certain offences relating to intimate images or recordings and voyeurism.

The new section 377BN sets out certain defences to certain child abuse material offences.

Clause 121 repeals and re-enacts section 377C to insert several new definitions used in the new offences created.

Clause 121 also inserts new sections 377CA and 377CB.

The new section 377CA explains the meaning of “exploitative relationship” in the context of certain existing and new offences relating to sexual activities with minors. Whether an accused person’s relationship with a minor is exploitative is to be determined by the court in the circumstances of each case and the court must have regard to the factors listed in section 377CA(1) in making such determination. The persons who are in the relationships set out in section 377CA(2) will be presumed to be in an exploitative relationship with the minor. To avoid doubt, a person in a relationship set out in section 377CA(2) is not to be presumed as being in an exploitative relationship with a minor who is his or her spouse.

The new section 377CB clarifies that a misconception of fact can vitiate consent given to a sexual act if the misconception is directly related to —

- (a) the nature of the act, namely that it is not of a sexual nature;
- (b) the purpose of the act, namely that it is not for a sexual purpose; or
- (c) the identity of the person doing the act.

Clause 122 repeals and re-enacts section 377D to extend the limited defence of “reasonable mistake as to age” to apply to accused persons of all ages, where the minor victims are at least 16 years old. The defence is no longer available for victims who are younger than 16.

Clause 123 amends section 378 to include an *Explanation* that intangible or incorporeal property may be “moved” by being transferred from one account to another, transferring the interests in the property from one person to another person, or by extinguishing the property. An *Illustration* of dishonestly transferring money from one bank account to another is also added.

Clause 124 amends section 401 to update the archaic phrase “wandering gang of thieves”.

Clause 125 amends section 403 to insert an *Illustration* of dishonestly retaining and appropriating money which was mistakenly transferred to the offender’s bank account.

Clause 126 amends section 405 to replace the word “wilfully” with “intentionally”.

Clause 127 repeals and re-enacts section 407 to modernise the provision and apply it to persons entrusted with property for the purpose of transportation for hire or storage for rent or charge.

Clause 128 repeals and re-enacts sections 408 and 409.

The new section 408 replaces the archaic language of “clerk” and “servant” with the term “employee”. The amendment also defines “employee” to include a person who is engaged in a capacity with the same fundamental qualities as an employee and to clarify that a person may be an employee even though that person does not receive any salary or other remuneration.

The new section 409 rationalises the categories of relationships covered by the provision. In *Public Prosecutor v Lam Leng Hung* [2018] SGCA 7, the Court of Appeal decided that section 409 did not cover directors of corporations, governing board members or key officers of a charity, and officers of a society. Such persons committing criminal breach of trust would therefore have been punished instead under section 406 for criminal breach of trust *simpliciter*. The clause amends section 409 to apply the enhanced punishment to persons who are entrusted with property —

- (a) in his or her capacity as a public servant;
- (b) in the way of his or her trade, profession or business as a banker, a merchant, a factor, a broker, an attorney or an agent;
- (c) in his or her professional capacity (other than of a trade, profession or business mentioned in paragraph (b));
- (d) in his or her capacity as a director of a corporation;
- (e) in his or her capacity as an officer of an unincorporated association;
- (f) in his or her capacity as a partner in a partnership;
- (g) in his or her capacity as a key executive of a corporation, an unincorporated association or a partnership; or
- (h) in his or her capacity as a fiduciary.

The section will apply to a director of a corporation, officer of an unincorporated association, partner in a partnership, key executive of a corporation, unincorporated association or partnership even though that person did not receive any salary or other remuneration. The maximum punishment will also be reduced from life imprisonment to 20 years’ imprisonment.

Clause 129 inserts an *Explanation* to section 410 to clarify that in proving whether any property is “stolen property”, it is not necessary for the prosecution to prove the elements or particulars of any offence that caused or contributed to the property being “stolen property”.

Clause 130 amends section 411 to widen the fault element to knowledge or reason to believe that the property was “obtained in whole or in part through any criminal offence involving fraud or dishonesty”. The fault element of “dishonesty” is also removed. A defence of reasonable excuse is also

introduced such that it would be a defence for a person charged with the offence to prove that he had a reasonable excuse to receive and retain the property, and that he exercised reasonable care as soon as practicable after having the knowledge or reason to believe mentioned.

Clause 131 amends section 412 to reduce the maximum punishment for dishonestly receiving property stolen in the commission of a gang-robbery from life imprisonment to 20 years' imprisonment. A defence of reasonable excuse is also introduced such that it would be a defence for a person charged with the offence to prove that he had a reasonable excuse to receive and retain the property, and that he exercised reasonable care as soon as practicable after having the knowledge or reason to believe mentioned.

Clause 132 amends section 413 to widen the fault element to knowledge or reason to believe that the property was "obtained in whole or in part through any criminal offence involving fraud or dishonesty".

Clause 133 amends section 414 to widen the fault element to knowledge or reason to believe that the property was "obtained in whole or in part through any criminal offence involving fraud or dishonesty".

Clause 134 amends section 415 to clarify that to constitute a physical element of the offence of cheating a person may be deceived "to cause the delivery" of any property to another person. The clause also inserts 2 *Explanations* to section 415 to clarify that corporate entities are capable of being deceived or induced to act in a certain manner for the purposes of the offence of cheating. This is possible even though none of its individual officers, employees or agents is personally deceived or induced.

Clause 135 inserts a new section 416A to create a new offence of illegally obtaining, retaining, supplying, transmitting or making available personal information of another person. The offence is similar in substance to section 8A of the Computer Misuse Act (Cap. 50A) (supplying, etc., personal information obtained in contravention of certain provisions) but is wider in that it is not restricted to personal information obtained through offences in the Computer Misuse Act such as computer hacking.

Clause 136 amends section 420 to clarify that to constitute a physical element of the offence of cheating and dishonestly inducing a delivery of property, a person may be deceived "to cause the delivery" of any property to another person. This amendment is similar to an amendment to section 415.

Clause 137 inserts a new section 420A to create a new offence of obtaining services fraudulently. It is an offence to fraudulently or dishonestly obtain a service knowing that it is being made available on a "for payment" basis, but nevertheless not intending that full payment be made. The inclusion of the 2 alternative fault elements of "fraudulently" and "dishonestly" is intended to ensure that the new offence requires the same states of mind currently required by

the offence of cheating in section 415. This new offence will catch factual situations where the services fraudulently obtained do not fall within the definition of “property” or where there is no false representation made at the time the services are obtained.

Clause 138 inserts a new section 424A to create a new offence of fraud which is not directly connected with a contract for the supply of goods or services. This new offence will be committed when any person fraudulently or dishonestly, (a) makes a representation, (b) fails to disclose information which he is under a legal duty to disclose, or (c) abuses, whether by act or omission, a position he occupies in which he is expected to safeguard, or not to act against, the financial interests of another person. Unlike the offence of cheating in section 415, this new offence does not require that the accused person intended to cause a loss or gain and the victim was factually deceived and induced to do certain acts. The new offence focuses instead on the dishonest or fraudulent intent and acts of the accused person and not their effect on an alleged victim. The inclusion of the 2 alternative fault elements of “fraudulently” and “dishonestly” is intended to ensure that the new offence requires the same states of mind currently required by the offence of cheating in section 415.

Clause 139 inserts a new section 424B to create a new offence of fraud, which is similar to the new section 424A. The difference is that for this new offence the false representation, failure to disclose information or abuse of position must be directly connected with a contract for the supply of goods or services.

Clause 140 amends section 426 to increase the maximum punishment for the offence of mischief from one to 2 years’ imprisonment.

Clause 141 repeals and re-enacts section 427 to consolidate and simplify the various forms of the offence of mischief from sections 430 to 434 which will be repealed. The arbitrary and outdated quantum of \$500 which distinguishes sections 426 and 427 is removed and the various forms of mischief in sections 430 to 434 replaced with a single offence with an enhanced punishment of 10 years’ imprisonment or fine or both. This enhanced punishment will be imposed on mischief which causes or which the accused person knows is likely to cause, a disruption to —

- (a) the provision of any key service (which is defined); or
- (b) the performance of any duty or function of, or the exercise of any power by the Government or a public agency.

Clause 142 repeals sections 430 to 434 on various permutations of the offence of mischief as explained above.

Clause 143 amends section 438 to remove the punishment of fine if the punishment imposed is life imprisonment.

Clause 144 amends section 442 to simplify the provisions relating to house-trespass by replacing the term “house-trespass” with the term “house-breaking” and to expand the section to cover a container used as a human dwelling.

Clause 145 repeals sections 443 to 446 to remove the distinctions between house-trespass, lurking house-trespass, lurking house-trespass by night, house-breaking and house-breaking by night. The provisions will be simplified with a single term of “house-breaking”. Criminal trespass in section 447 will however be retained.

Clause 146 repeals and re-enacts section 448 to replace the term “house-trespass” with “house-breaking” and to enhance the punishment.

Clause 147 amends section 449 to replace the term “house-trespass” with “house-breaking” and to increase the punishment to provide for appropriate sentences for serious cases which would fall within the current offence of house-breaking.

Clause 148 amends section 450 to replace the term “house-trespass” with “house-breaking” and to increase the punishment to provide for appropriate sentences for serious cases which would fall within the current offence of house-breaking.

Clause 149 amends section 451 to replace the term “house-trespass” with “house-breaking” and to increase the punishment to provide for appropriate sentences for serious cases which would fall within the current offence of house-breaking.

Clause 150 amends section 452 to replace the term “house-trespass” with “house-breaking” and to increase the punishment to provide for appropriate sentences for serious cases which would fall within the current offence of house-breaking.

Clause 151 repeals and re-enacts section 453 to provide for the offence of possession of house-breaking implements or offensive weapons. This offence is ported over from section 22 of the Miscellaneous Offences (Public Order and Nuisance) Act (Cap. 184).

Clause 152 repeals sections 454 to 458 to remove the distinctions between lurking house-trespass, lurking house-trespass by night, house-breaking and house-breaking by night. The provisions will be simplified with a single term of “house-breaking”.

Clause 153 makes a technical amendment to section 458A to change the cross-references.

Clause 154 amends section 459 to remove the term “lurking house-trespass”. The provision will be simplified with a single term of “house-breaking”.

Clause 155 amends section 460 to remove the term “lurking house-trespass by night” and “house-breaking by night” and simplify it with a single term of “house-breaking”.

Clause 156 makes a technical amendment to the heading of Chapter XVIII.

Clause 157 amends section 477A to replace the word “wilfully” with “intentionally” and to clarify that the documents, books, security or accounts altered or falsified by an employee include a set of such documents, books, security or accounts.

Clause 158 makes a technical amendment to the sub-heading of Chapter XVIII.

Clause 159 repeals and re-enacts section 489A to insert new definitions of “coin” and “currency”. The distinction between “coin” and “current coin” is removed and the definition of “currency” is adapted from the Currency Act (Cap. 69). The term “currency note” is changed to “currency”.

Clauses 160, 161 and 162 amend sections 489B, 489C and 489D, respectively, to change the term “currency note” to “currency”. The amendments will have the effect of combining offences relating to “coins” (including current coins) in Chapter XII with provisions relating to bank notes and currency in sections 489B, 489C and 489D.

Clause 163 inserts new sections 489E to 489I. The new section 489E clarifies that a person who in Singapore abets the counterfeiting of currency overseas will be punished in the same manner as if the counterfeiting had taken place in Singapore.

The new sections 489F to 489I will create new offences applicable to currency and coins which are similar to the offences relating to the alteration or counterfeiting of coins in Chapter XII which will be repealed.

Clause 164 repeals the whole of Chapter XX (Offences relating to marriage). The following sections in Chapter XX will be re-enacted with modifications in the Women’s Charter as they are more appropriately located in the Charter. See the related amendments to the Women’s Charter (see clause 189):

- (a) section 493 (Cohabitation caused by a man deceitfully inducing a belief of lawful marriage);
- (b) section 494 (Marrying again during the lifetime of husband or wife);
- (c) section 495 (Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted);
- (d) section 496 (Marriage ceremony gone through with fraudulent intent without lawful marriage).

Clause 165 amends section 506 to delete the words “or impute unchastity to a woman” as societal norms about the consequences of such imputation have

evolved since this provision was first enacted, thus changing the need for enhanced punishment.

Clause 166 repeals sections 508 and 509. Section 508 (Act caused by inducing a person to believe that he will be rendered an object of divine displeasure) is repealed as it is no longer relevant in today's context.

Section 509 is repealed and re-enacted in section 377BA, with amendments to make the provision gender-neutral.

Clause 167 repeals and re-enacts section 511 with a new definition of criminal attempt with the following features:

- (a) the physical element is taking a substantial step towards the commission of the offence and a non-exhaustive list of examples of substantial steps is set out in the section;
- (b) the fault element is intention to commit the primary offence;
- (c) attempts to commit an offence which was impossible to commit fall within the scope of attempts.

Clause 167 also inserts a new section 512 to provide for the punishment for attempting to commit an offence where it is not provided in the Code or other legislation. The prescribed punishment for attempt will be generally equal to the prescribed punishment for the primary offence except where —

- (a) the punishment for the primary offence is death or life imprisonment;
- (b) the punishment for the primary offence is fixed by law, has a specified minimum or a mandatory minimum punishment; or
- (c) where there is express provision made in legislation for the punishment of attempts.

Clause 168 inserts a new schedule of offences (consisting mainly of important property and white-collar offences) under which the Singapore courts will have jurisdiction in accordance with the new section 4B.

## PART 2

### AMENDMENTS TO CRIMINAL PROCEDURE CODE

Part 2 amends the Criminal Procedure Code.

Clause 169 amends the Criminal Procedure Code by inserting a new section 303A which creates a new form of sentencing known as a presumptive minimum sentence. The court must pass no less than the minimum “default” sentence of imprisonment unless by reason of exceptional circumstances the court is satisfied that it would be unjust to impose on a first-time offender the

presumptive minimum sentence. The clause also makes consequential and related amendments to the Criminal Procedure Code.

### PART 3 AMENDMENTS TO OTHER ACTS

Part 3 (clauses 170 to 191) makes consequential and related amendments to certain other Acts.

Related amendments are made to the following statutory provisions to replace certain mandatory minimum sentences of imprisonment with the presumptive minimum sentence:

- (a) section 22B(1) of the Employment of Foreign Manpower Act (Cap. 91A);
- (b) section 12(2) of the Fisheries Act (Cap. 111);
- (c) sections 9(5), 36, 57(1) and 57B(1) of the Immigration Act (Cap. 133);
- (d) section 42(2) of the Passports Act (Cap. 220);
- (e) section 79(2) of the Road Traffic Act (Cap. 276).

Clause 170 makes a consequential amendment to the Schedule to the Arms Offences Act (Cap. 14).

Clause 171 amends section 5 of the Children and Young Persons Act to make it an offence for a person who has the custody, charge or care of a child to fail to take reasonable steps to protect the child when he or she knows or ought to know the child is at risk of being ill-treated. The maximum punishments are also substantially enhanced. Section 7 of the Children and Young Persons Act is also repealed and re-enacted to enhance the punishments for sexual exploitation of children below 14 years of age.

Clause 172 makes a consequential amendment to the Third Schedule to the Criminal Law (Temporary Provisions) Act (Cap. 67).

Clause 173 amends section 22B(1) of the Employment of Foreign Manpower Act to introduce the presumptive minimum sentence.

Clause 174 amends the Evidence Act to lift marital communications privilege for any communication relating to certain specified child abuse offences, sexual offences and offences involving violence or threat of violence against vulnerable persons and domestic workers. The clause also makes consequential and related amendments to the Evidence Act.

Clause 175 amends section 12(2) of the Fisheries Act to introduce the presumptive minimum sentence.

Clause 176 amends sections 9(5), 36, 57(1) and 57B(1) of the Immigration Act to introduce the presumptive minimum sentence.

Clause 177 makes consequential amendments to the Internal Security Act (Cap. 143).

Clause 178 makes consequential amendments to the Schedule to the Massage Establishments Act 2017 (Act 45 of 2017).

Clause 179 amends section 42(6) of the Mental Capacity Act (Cap. 177A) to substantially enhance the penalties for ill-treatment of persons who lack mental capacity by the donee of that person's lasting power of attorney or a deputy appointed by the court for that person.

Clause 180 amends section 7 of the Mental Health (Care and Treatment) Act (Cap. 178A) to expand the powers of a police officer and a special police officer to apprehend a person who is believed to be dangerous to himself or others and where such danger is reasonably suspected to be attributable to a mental disorder. A police officer's reasonable belief that a person is doing or about to do an act which is dangerous to himself or herself is sufficient basis for the police officer's belief that the danger is attributable to a mental disorder. This will empower police officers to apprehend persons who are attempting to commit suicide, and refer them for medical assessment and treatment. Such empowerment is necessary as criminal investigation powers will no longer apply to these situations.

Clause 181 repeals subsections (1), (2) and (3) of section 22 of the Miscellaneous Offences (Public Order and Nuisance) Act as a consequential amendment to the re-enacted section 453 of the Penal Code on possession of house-breaking implements or offensive weapons. The clause also inserts a new section 14D which provides for the offence of transmitting false or fabricated messages. This offence is substantially similar to section 45(b) of the Telecommunications Act which will be repealed.

Clause 182 amends section 42(2) of the Passports Act to introduce the presumptive minimum sentence.

Clause 183 amends the Police Force Act by inserting new sections 26A to 26D to set out the powers of police officers and special police officers such as search and seizure in attempted suicide cases. These powers may be exercised where they are reasonably necessary to prevent personal injury or death to any person, facilitating a coroner's inquiry where death is caused or preserve evidence for any subsequent investigation into any suspected arrestable offence which may be disclosed. These powers are necessary as attempted suicide will no longer be an offence.

Clause 184 makes an amendment to section 48(2) of the Public Order and Safety (Special Powers) Act 2018 (Act 26 of 2018) consequential to the amendments in clause 142.

Clause 185 makes consequential amendments to the Second Schedule to the Radiation Protection Act (Cap. 262).

Clause 186 amends section 79(2) of the Road Traffic Act to introduce the presumptive minimum sentence. The clause also makes consequential and related amendments to section 42(2) of the Road Traffic Act.

Clause 187 repeals section 45 of the Telecommunications Act (Cap. 323). The current section 45(a) relates to false or fabricated messages relating to bombs or other thing likely to explode or ignite. The offence of communicating such false or fabricated messages will now be caught under the new section 268A of the Penal Code on communicating false information of a harmful thing. The offence of transmitting false or fabricated messages under section 45(b) is now caught by the new section 14D of the Miscellaneous Offences (Public Order and Nuisance) Act. The clause also makes a consequential amendment to section 60(3) of the Telecommunications Act.

Clause 188 makes consequential amendments to the First and Second Schedules to the United Nations Personnel Act (Cap. 339A).

Clause 189 amends the Women's Charter to insert a new section 6A which is a substantially similar provision as the repealed sections 494 (Marrying again during the lifetime of husband or wife) and 495 (Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted) of the Penal Code.

The Women's Charter is also amended to insert a new section 6B that is substantially similar to section 493 (Cohabitation caused by a man deceitfully inducing a belief of lawful marriage) but modified to apply in a gender-neutral manner to women as well as men. The Women's Charter is also amended to insert a new section 6C that is substantially similar to section 496 (Marriage ceremony gone through with fraudulent intent without lawful marriage).

Section 145(1) of the Women's Charter is amended to extend the application of the offence of causing or encouraging prostitution of a girl from girls below 16 years to girls below 18 years old. The limited defence of mistake as to age in section 140(5) is also removed.

Clause 190 makes a consequential amendment to section 3(5) of the Work Injury Compensation Act (Cap. 354).

Clause 191 provides a saving and transitional provision.

## EXPENDITURE OF PUBLIC MONEY

This Bill will involve the Government in extra financial expenditure, the exact amount of which cannot at present be ascertained.

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