

CHAPTER 125A

CRIMINAL LAW (ARRESTABLE OFFENCES)

ARRANGEMENT OF SECTIONS

SECTION

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CHAPTER 125A

CRIMINAL LAW (ARRESTABLE OFFENCES)

An Act to amend the law by abolishing the division of crimes into felonies and misdemeanours, and to amend and simplify the law in respect of matters arising from or related to that division or the abolition of it, and for connected purposes. 1992-17.

[By Proclamation] Commence-
ment.

Citation

1. This Act may be cited as the *Criminal Law (Arrestable Offences) Act*. Short title.

Interpretation

2. (1) In this Act, Definition.
“arrestable offence”

(a) means

- (i) an offence for which the sentence is fixed by law,
- (ii) an offence for which a person may, under or by virtue of any enactment, be sentenced to 5 or more years imprisonment,
- (iii) an offence for which a person may be arrested under the *Customs Act*, Cap. 66.

(iv) an offence under the *Official Secrets Acts, 1911 and 1920*, 1&2 Geo. 5, C. 28 10 & 11 Geo. 5, C. 75.

Cap. 144.

(v) an offence under section 3 or 5 of the *Prevention of Corruption Act*;

(b) conspiring to commit any offence mentioned in paragraph (a);

(c) attempting to commit any offence mentioned in paragraph (a);
and

(d) inciting, aiding, abetting, counselling or procuring the commission of any offence mentioned in paragraph (a).

Provisions relating to arrestable offences

Abolition of distinction between felony and misdemeanour.

3. (1) All distinctions between felony and misdemeanour are hereby abolished.

(2) Subject to the provisions of this Act, on all matters on which a distinction has previously been made between felony and misdemeanour, including mode of trial, the law and practice in relation to all offences cognisable under the law of Barbados, including piracy, shall be the law and practice applicable at the commencement of this Act in relation to misdemeanour.

Arrest without warrant.

4. (1) The powers of summary arrest conferred by this section apply to arrestable offences.

(2) Any person may arrest without warrant anyone who is, or whom he, with reasonable cause, suspects to be, in the act of committing an arrestable offence.

(3) Where an arrestable offence has been committed, any person may arrest without warrant anyone who is, or whom he, with reasonable cause, suspects to be guilty of the offence.

(4) Where a police officer, with reasonable cause, suspects that an arrestable offence has been committed, he may arrest without warrant anyone whom he, with reasonable cause, suspects to be guilty of the offence.

(5) A police officer may arrest without warrant any person who is, or whom he, with reasonable cause, suspects to be, about to commit an

arrestable offence.

(6) For the purpose of arresting a person under any power conferred by this section, a police officer may pursue that person into any building or other place to which that person has fled and, enter the building or other place, if need be by force, and search any such building or place where that person is.

(7) This section does not affect the operation of any enactment restricting the institution of proceedings for an offence, nor prejudice any power of arrest conferred by law apart from this section.

5. (1) Where a police officer has reasonable grounds for suspecting that any offence which is not an arrestable offence has been committed or attempted, or is being committed or attempted, he may arrest the relevant person if it appears to him that service of a summons is impracticable or inappropriate because any of the general arrest conditions is satisfied.

General
arrest
conditions.

(2) In this section "the relevant person" means any person whom the police officer has reasonable grounds to suspect of having committed or having attempted to commit the offence or of being in the course of committing or attempting to commit the offence.

(3) The general arrest conditions are:

- (a) that the name of the relevant person is unknown to, and cannot be readily ascertained by, the police officer;
- (b) that the police officer has reasonable grounds for doubting whether a name furnished by the relevant person as his name is his real name;
- (c) that
 - (i) the relevant person has failed to furnish a satisfactory address for service; or
 - (ii) the police officer has reasonable grounds for doubting whether an address furnished by the relevant person is a satisfactory address for service;

- (d) that the police officer has reasonable grounds for believing that arrest is necessary to prevent the relevant person
 - (i) causing physical injury to himself or any other person;
 - (ii) suffering physical injury;
 - (iii) causing loss of or damage to property;
 - (iv) committing an offence against public decency; or
 - (v) causing an unlawful obstruction of the highway;
- (e) that the police officer has reasonable grounds for believing that the arrest is necessary to protect a child or other vulnerable person from the relevant person.

(4) For the purposes of subsection (3) an address is a satisfactory address for service if it appears to the police officer

- (a) that the relevant person will be at that address for a sufficiently long period for it to be possible to serve him with a summons; or
- (b) that some other person specified by the relevant person will accept service of a summons for the relevant person at that address.

(5) Nothing in subsection (3)(d) authorises the arrest of a person under sub-paragraph (iv) of that paragraph except where members of the public going about their normal business cannot reasonably be expected to avoid the person to be arrested.

(6) This section shall not prejudice any power of arrest conferred apart from this section.

Repeal of
statutory
powers of
arrest
without
warrant or
order.

6. (1) Subject to subsection (2), a provision in any Act or statutory instrument in force before the commencement of this Act that empowers a police officer

- (a) to arrest a person for an offence without a warrant; or
- (b) to arrest a person otherwise than for an offence without a

warrant or an order of a court,
ceases to have effect.

(2) The powers of arrest conferred by the enactments specified in *First Schedule* are preserved. First
Schedule.

7. (1) A person may use such force as is reasonable in the circumstances in the prevention of crime, or in effecting or assisting in the lawful arrest of offenders or suspected offenders or of persons unlawfully at large. Use of force
in making
arrest etc.

(2) Subsection (1) replaces the rules of the common law on the question when force used for a purpose mentioned in the subsection is justified by that purpose.

8. (1) Where a person has committed an arrestable offence, any other person who, knowing or believing him to have committed the offence or some other arrestable offence, does without lawful authority or reasonable excuse any act with intent to impede his apprehension or prosecution is guilty of an offence. Penalties for
assisting
offenders.

(2) If on the trial of an accused on indictment for an arrestable offence, the jury are satisfied that the offence charged, or some other offence of which the accused might on that charge be found guilty, was committed, but find the accused not guilty of it, they may find him guilty of any offence under subsection (1) of which they are satisfied that he is guilty in relation to the offence charged, or that other offence.

(3) A person committing an offence under subsection (1) with intent to impede another person's apprehension or prosecution is, on conviction on indictment, liable to imprisonment according to the gravity of the other person's offence, as follows:

- (a) if that offence is one of high treason or of murder, he is liable to imprisonment for 10 years;
- (b) if it is one for which a person, not previously convicted, may be sentenced to imprisonment for a term of 15 years, he is liable to imprisonment for 7 years;

(c) if it is one not included in paragraph (a) or (b) but is one for which a person, not previously convicted, may be sentenced to imprisonment for a term of 10 years, he is liable to imprisonment for 5 years;

(d) in any other case, he is liable to imprisonment for 3 years.

(4) No proceedings may be instituted for an offence under subsection (1) except by or with the consent of the Director of Public Prosecutions, but this subsection does not prevent the arrest, or the issue of a warrant for the arrest, of a person for such an offence, or the remand in custody or on bail of a person charged with such an offence.

Cap. 189.

(5) For the purposes of the *Extradition Act*, offences in relation to an extradition crime which in Barbados would be offences under subsection (1) are extradition crimes and are deemed to be included in the Schedule to that Act.

Penalties for
concealing
offences or
giving false
information.

9. (1) Where a person has committed an arrestable offence, any other person who, knowing or believing that the offence or some other arrestable offence has been committed, and that he has information which might be of material assistance in securing the prosecution or conviction of an offender for it, accepts or agrees to accept for not disclosing that information any consideration other than the making good of loss or injury caused by the offence, or the making of reasonable compensation for that loss or injury, is guilty of an offence and liable on summary conviction to imprisonment for 2 years or to a fine of \$2 500 or to both.

(2) Where a person causes any wasteful employment of the police by knowingly making to any person a false report tending to show that an offence has been committed, or to give rise to apprehension for the safety of any persons or property, or tending to show that he has information material to any police inquiry, he is guilty of an offence and liable on summary conviction to imprisonment for 2 years or to a fine of \$5 000 or to both.

(3) No proceedings may be instituted for an offence under this section except by or with the consent of the Director of Public Prosecutions.

(4) The compounding of an offence other than high treason or treason is not an offence other than under this section.

10. The enactments mentioned in the *Second Schedule* are hereby amended to the extent set out in column 3 of that *Schedule*.

Amendments
of particular
enactments.
Second
Schedule.

11. (1) Subject to this section, in so far as this Act affects any matter of procedure or evidence or the jurisdiction or powers of any court in relationship to offences, it shall have effect in relation to proceedings on indictment for an offence if, but only if, the person charged with the offence is arraigned after the commencement of this Act.

Savings and
other general
provisions.

(2) Where a person is arraigned after the commencement of this Act on an indictment for a felony committed before that commencement, then for the purposes of his trial on that indictment the offence shall be deemed always to have been a misdemeanour and, notwithstanding that the indictment is framed as an indictment for felony, shall be deemed to be charged as a misdemeanour in the indictment.

(3) On an indictment signed before the commencement of this Act, a person may be found guilty of any offence of which he could have been found guilty on that indictment if this Act had not been passed, but not of any other offence.

(4) Where a person has been tried for and convicted of felony before the commencement of this Act, the trial or conviction may be proved in any manner in which it could have been proved if this Act had not been passed.

(5) Subject to any express amendment or repeal made by this Act, the following provisions shall have effect in relation to any Act passed before this Act:

- (a) any enactment creating an offence by directing it to be felony shall be read as directing it to be an offence, and nothing in this Act shall affect the operation of any reference to an offence in the enactments specially relating to that offence by reason only of the reference being in terms no longer applicable after the

commencement of this Act;

- (b) any enactment referring to felonious stealing shall be read as referring merely to stealing;
 - (c) nothing in this Act shall affect the punishment provided for an offence by the enactments specially relating to that offence.
- (6) The procedure on trials for high treason, treason or misprision of treason is the same as the procedure on trials for murder.

Commence-
ment.

12. This Act comes into operation on a day to be fixed by proclamation.

FIRST SCHEDULE

(Section 6(2))

POWERS OF ARREST PRESERVED

1. Sections 7(3) and 10 of the *Mental Health Act*, Cap. 45.
2. Section 66 of the *Magistrates Jurisdiction and Procedure Act*, Cap. 116.
3. Section 15 of the *Visiting Forces Act*, Cap. 118.
4. Section 3A of the *Cane Fires (Prevention) Act*, Cap. 123.
5. Section 5 of the *Control of Offensive Weapons Act*, Cap. 124A.
6. Section 16(2) of the *Cruelty to Animals Act*, Cap. 128.
7. Sections 46 and 47 of the *Malicious Injury to Property Act*, Cap. 140.
8. Section 6 of the *Prevention of Cruelty to Children Act*, Cap. 145.
9. Section 11 of the *Trespass to Property (Reform) Act*, Cap. 155B.
10. Section 5 of the *Vagrancy Act*, Cap. 156.
11. Section 177 of the *Defence Act*, Cap. 159.
12. Sections 20 and 30 of the *Police Act*, Cap. 167.

13. Section 68(1) of the *Prisons Act*, Cap. 168.
14. Section 36 of the *Public Order Act*, Cap. 168A.
15. Sections 10, 34(1) and 35 of the *Reformatory and Industrial Schools Act*, Cap. 169.
16. Section 5 of the *Riots (Prevention) Act*, Cap. 171.
17. Section 22 of the *Immigration Act*, Cap. 190.
18. Section 18 of the *Animals (Diseases and Importation) Act*, Cap. 253.
19. Section 36 of the *Drug Abuse (Prevention and Control) Act*, Cap. 131.
20. Section 6 of the *Praedial Larceny Prevention Act*, Cap. 142A.
21. Section 47 of the *Offences Against the Person Act*, Cap. 141.

SECOND SCHEDULE

(Section 9)

<i>Chapter</i>	<i>Enactment</i>	<i>Amendment</i>
1	The <i>Interpretation Act</i> .	<p>In Subsection (4) of section 22 the following words are repealed</p> <p style="padding-left: 40px;">"but this subsection shall not be construed as excluding the application of any rule of law which restricts the right to take civil proceedings in respect of an act or omission which constitutes a felony".</p> <p>In section 42 the following definition is inserted immediately before the definition of "Chief Justice"</p> <p style="padding-left: 40px;">""arrestable offence" has the meaning assigned to it by section 2 of the <i>Criminal Law (Arrestable Offences) Act, Cap. 125A;</i>".</p>

<i>Chapter</i>	<i>Enactment</i>	<i>Amendment</i>
27A	<i>The Post Office Act.</i>	<p>Section 47 is repealed and the following section is substituted therefor:</p> <p>"Abettors in indictable and summary offences.</p> <p>47. (1) Any person who aids, abets, counsels or procures the commission of an offence punishable under this Act on conviction on indictment is guilty of an offence and, may be indicted, tried and punished as a principal offender.</p> <p>(2) Any person who aids, abets counsels or procures the commission of any offence punishable under this Act on summary conviction is guilty of an offence and is liable to the same punishment as the principal offender, and may be proceeded against either with the principal offender, or before or after the conviction of the principal offender, and either in the magisterial district in which the principal offender may be convicted or that in which the offence of aiding, abetting, counselling or procuring may have been committed."</p>
64	<i>The Counterfeit Currency (Convention) Act.</i>	In section 5 the words "an offence" are substituted for "felony".
66	<i>The Customs Act.</i>	In subsection (1) of section 194 the words "an offence" are substituted for "felony".

<i>Chapter</i>	<i>Enactment</i>	<i>Amendment</i>
91	<i>The Stamp Duty Act.</i>	In section 40 the words "an offence" are substituted for "felony".
115B	<i>The Juries Act.</i>	In paragraph (a) of section 5 the words "arrestable offence" are substituted for "felony". In subsection (1) of section 28 the word ", felony" is repealed. In subsection (2) of section 29 the following words are repealed "whether the subject matter of the indictment be a felony or a misdemeanour".
124	<i>The Coinage (Offences) Act.</i>	In section 3 the words "an offence" are substituted for "felony". In section 4 the words "an offence" are substituted for "felony". In section 5 the words "an offence" are substituted for "felony". In section 6 the words "an offence" are substituted for "felony". In subsection (1) of section 7 the words "an offence" are substituted for "felony". In section 8 the words "an offence" are substituted for "felony". Section 12 is repealed and the following section is substituted:

<i>Chapter</i>	<i>Enactment</i>	<i>Amendment</i>
		<p>"Second offence of uttering or possession. 12. Any person who having been convicted of any offence under any of the preceding sections, or under section 14 or 18, commits an offence under section 9, 10 or 11 shall be liable to imprisonment for life".</p> <p>In section 14 the words "an offence" are substituted for "felony".</p> <p>In section 18 the words "an offence" are substituted for "felony".</p> <p>Section 23 is repealed.</p> <p>Subsection (2) of section 27 is repealed.</p>
127	<i>Criminal Procedure Act.</i>	<p>Section 7 is amended as follows:</p> <p>(a) by the substitution of the word "offence" for "treason, felony or piracy" in subsection (1);</p> <p>(b) by the substitution of the word "offence" for "treason, felony or piracy or misdemeanour" in subsection (2);</p> <p>(c) by the repeal of subsections (3) and (4).</p> <p>In section 8 the words "on indictment for an offence" are substituted for "treason or felony or misdemeanour".</p> <p>Section 9 is amended as follows:</p> <p>(a) by the substitution of the words "arrestable offence" for "felony" wherever they appear in subsection (1);</p>

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(b) by the substitution of the word "offence" for "felony or misdemeanour" wherever they appear in subsection (3);

(c) by substitution of the word "offence" for "felony or misdemeanour" in subsection (4);

(d) by the repeal of subsections (5) and (6).

In section 10 substitute the word "offence" for "felony or misdemeanour" in subsection (1).

Section 11 is amended as follows:

(a) subsection (1) is repealed and the following subsection is substituted:

"(1) No person shall suffer death on conviction for any offence except where statute makes the offence punishable by death.";

(b) subsection (2) is repealed and the following subsection is substituted:

"(2) Every person convicted of any offence not punishable by death shall be punished in the manner prescribed by the statute specially relating to such offence or by such fine or such other manner as the High Court may determine in addition to or in substitution for the punishment prescribed by the statute.";

(c) by inserting immediately after subsection (2) the following new subsection (2A):

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"(2A) Every person convicted of an offence for which no punishment is specially provided by the statute relating to that offence shall be deemed to be punishable under this Act by imprisonment for two years or by such fine or in such other manner as the High Court may determine in addition to or substitution for such imprisonment.";

(d) by substituting the word "offence" for "felony" in subsection (3).

Section 12 is repealed.

In section 13 the words "any offence" are substituted for "larceny or false pretences or any other offence" in subsection (1).

Section 14 is repealed.

Section 16 is amended by the substitution of the word "offence" for "felony" wherever it appears in subsections (1) and (2).

PART IV is repealed and the following substituted therefor:

"PART IV

Aiders and Abettors

Abettors
in indict-
able and
summary
offences.

17. (1) Any person who aids, abets, counsels or procures the commission of any arrestable offence or misdemeanour, whether the misdemeanour is one at common law or by virtue of any Act, may be indicted, tried and punished as a principal offender.

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(2) Every person who at different times handles stolen property, may be charged in the same indictment and may be tried together, notwithstanding that the principal offender is not included in the same indictment or is not in custody or amendable to justice.

Abettors
in
Admiralty
offences.

18. Where any person, within the jurisdiction which before 30th November, 1966 would have been the jurisdiction of England, aids, abets, counsels or procures the commission of any arrestable offence cognisable in the courts of Barbados, whether the same is an offence at common law or by virtue of any Act and whether such offence was committed within that jurisdiction or elsewhere, or was begun within that jurisdiction and completed elsewhere, or was begun elsewhere and completed within that jurisdiction, the venue in the margin of an indictment for any such offence shall be the same if the offence had been committed in Barbados and the offence shall be averred to have been committed on the high seas."

Section 23 is amended

(a) by the substitution of the word "offence" for "felony or misdemeanour" appearing in line 3 of subsection (2); and

<i>Chapter</i>	<i>Enactment</i>	<i>Amendment</i>
		(b) by the substitution of the words "the offence" for "felony or misdemeanour" appearing in lines 8 and 9 of that subsection.
136	<i>The Indictment Act.</i>	<p>Section 5 is repealed and the following section is substituted therefor:</p> <p>"Joinder of charges in the same indictment. 5. Subject to the rules, charges for more than one offence may be joined in the same indictment.";</p> <p>In rule 3 of the Rules the following words are deleted: "whether felonies or misdemeanours,".</p>
140	<i>Malicious Injury to Property.</i>	<p>In sections 30 to 37, the words "an offence" are substituted for "felony";</p> <p>In section 46, the words "an offence" are substituted for "any felony";</p> <p>Section 48 is repealed and the following section is substituted therefor:</p> <p>"Abettors in indictable offences. 48. Any person who aids, abets, counsels or procures the commission of any indictable offence punishable under this Act may be indicted, tried and punished as a principal offender.".</p> <p>In section 56,</p> <p>(i) the word "offence" is substituted for "misdemeanour" appearing in subsection (1);</p> <p>(ii) subsection (2) is repealed.</p>
142	<i>The Perjury Act.</i>	In paragraph (a) of section 14 the words "felony or" are repealed.

<i>Chapter</i>	<i>Enactment</i>	<i>Amendment</i>
156	<i>The Vagrancy Act.</i>	<p>Section 3 is amended as follows</p> <p>(a) by the substitution of the words "for the purpose of committing an arrestable offence" for "feloniously" in paragraph (k) of subsection (1);</p> <p>(b) by the substitution of the words "an arrestable offence" for "any felonious act" in paragraph (i) of subsection (1);</p> <p>(c) by the substitution of the words "an arrestable offence" for "felony" in paragraph (l) of subsection (1); and</p> <p>(d) by the substitution of the words "an arrestable offence" for, "a felony" wherever they appear in subsection (3).</p>
167	<i>The Police Act.</i>	<p>In paragraph (a) of subsection (1) of section 20 the words "an arrestable offence" are substituted for "a felony".</p> <p>In paragraph (g) of subsection (1) of section 20 the words "an arrestable offence" are substituted for "a felony".</p> <p>Delete section 62A.</p>
	<i>The Official Secrets Act, 1911 (contained in the Appendix to Title XII).</i>	<p>In subsection (1) of section 1 the words "an offence" are substituted for "a felony".</p> <p>In section 6 the words "whether that offence is a felony or not," are repealed.</p>
	<i>The Official Secrets Act, 1920 (contained in the Appendix to Title XII).</i>	<p>In subsection (1) of section 8 the words "an offence under subsection (1) of section 1 of the principal Act" are substituted for "a felony under the principal Act or this Act".</p>

<i>Chapter</i>	<i>Enactment</i>	<i>Amendment</i>
		In subsection (4) of section 8 the words "felony or" are repealed.
227	<i>The Judicial Sale of Land Act.</i>	In subsection (2) of section 21 the words "an offence" are substituted for "felony".
242	<i>The Administration of Estates (Jurisdiction and Procedure) Act.</i>	In section 8 the words "an offence" are substituted for "felony".
252	<i>The Agricultural Aids Act.</i>	In subsection (3) of section 9 the words "an offence" are substituted for "felony".
		In section 12 the words "an offence" are substituted for "felony".
		In subsection (2) of section 18 the words "an offence" are substituted for "felony".
303	<i>The Bankruptcy Act.</i>	In subsection (4) of section 27 the words ", or any felony connected with his bankruptcy," are repealed.
		In paragraph (a) of section 76 the words "felony or" are repealed.
		In section 136 the words "an offence" are substituted for "a misdemeanour".
		In section 139 the words "an offence" are substituted for "felony".
		In subsection (l) of section 143 the words "felony or" are repealed.
311	<i>The Insurance Corporation of Barbados Act.</i>	In paragraph (b) of subsection (1) of section 19 the words "an arrestable offence" are substituted for "a felony".
315	<i>The Pawnbrokers Act.</i>	In paragraph (b) of section 26 the word "stealing" is substituted for "feloniously taking".

<i>Chapter</i>	<i>Enactment</i>	<i>Amendment</i>
322A	<i>The Barbados National Bank Act.</i>	In paragraph (b) of subsection (1) of section 11 the words "an arrestable offence" are substituted for "a felony".
323C	<i>The Central Bank of Barbados Act.</i>	In paragraph (b) of subsection (1) of section 13 the words "an arrestable offence" are substituted for "a felony".
374	<i>The Veterinary Surgeons Act.</i>	In subsection (1) of section 10 the words "arrestable offence" are substituted for "felony".