

CHAPTER 125A

CRIMINAL LAW (ARRESTABLE OFFENCES) 1992-17

This Act came into operation on 1st September, 1994 by Proclamation (S.I. 1994 No. 73).

Amended by:

This Act has not been amended

Law Revision Orders

The following Law Revision Order or Orders authorized the insertion and removal of pages as the case may be under the Law Revision Act Cap.2 now repealed:

2007

CHAPTER 125A

**CRIMINAL LAW (ARRESTABLE OFFENCES)
1992-17**

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BARBADOS

CRIMINAL LAW (ARRESTABLE OFFENCES)

1992-17

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.

[Commencement: 1st September, 1994]

CITATION

Short title

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

INTERPRETATION

Definition

- 2.(1) In this Act,

“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]
 - (v) an offence under section 3 or 5 of the *Prevention of Corruption Act*, Cap. 144;
- (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 immediately before 1st September, 1994 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.

General arrest conditions

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.

(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 subparagraph (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 1st September, 1994 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 the *Schedule* are preserved.

Use of force in making arrest etc.

- 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.

(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.

Penalties for assisting offenders

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.

(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.

(5) For the purposes of the *Extradition Act*, Cap. 189, 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.

Savings and other general provisions

10.(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 1st September, 1994.

(2) Where a person is arraigned after 1st September, 1994 on an indictment for a felony committed before that date, 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 1st September, 1994, 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 1st September, 1994 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 1st September, 1994;
- (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.

SCHEDULE*(Section 6(2))**POWERS OF ARREST PRESERVED*

1. Sections 7(3) and 10 of the *Mental Health Act*, Cap. 45.
2. Section 76 of the *Magistrate's Courts Act*, Cap. 116A.
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 *Minor Offences Act*, Cap. 137.
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.