REPUBLIC OF SINGAPORE

GOVERNMENT GAZETTE

ACTS SUPPLEMENT

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The following Act was passed by Parliament on 19 March 2018 and assented to by the President on 11 April 2018:—

REPUBLIC OF SINGAPORE

No. 19 of 2018.

I assent.

HALIMAH YACOB,
President.
11 April 2018.

LS

An Act to amend the Criminal Procedure Code (Chapter 68 of the 2012 Revised Edition) and certain other Acts to enhance the fairness of procedures, and ensure correct and equitable outcomes, in the criminal justice system.

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 Justice Reform Act 2018 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

Amendment of section 2

2. Section 2 of the Criminal Procedure Code (called in this Act the Code) is amended —

(*a*) by inserting, immediately after the definitions of "arrestable offence" and "arrestable case" in subsection (1), the following definition:

> "'"audiovisual recording" means an aggregate of visual images and sounds embodied in a thing, so as to be capable, by the use of that thing, of being produced electronically and shown as a moving picture with associated sounds;";

(*b*) by inserting, immediately after the definition of "bailable offence" in subsection (1), the following definition:

> "'"child abuse offence" means an offence under section 5(1), 6, 7, 11(2), 12 or 13 of the Children and Young Persons Act (Cap. 38), and includes an abetment of, a conspiracy to commit, or an attempt to commit, such an offence;";

(*c*) by inserting, immediately after the definition of "court" in subsection (1), the following definition:

> "'"Criminal Procedure Rules" —
>
> (*a*) means the Criminal Procedure Rules made under this Code and any other written law by the Criminal Procedure Rules Committee constituted under section 428A; and

(*b*) includes any subsidiary legislation deemed under section 428A(15) to be Criminal Procedure Rules;";

(*d*) by inserting, immediately after the definition of "criminal record" in subsection (1), the following definition:

" "data" has the same meaning as in the Computer Misuse Act;";

(*e*) by inserting, immediately before the definition of "financial institution" in subsection (1), the following definition:

" "expert" means a person with scientific, technical or other specialised knowledge based on training, study or experience;";

(*f*) by inserting, immediately after the definition of "fine" in subsection (1), the following definition:

" "fine-only offence" means an offence that is punishable only with a fine;";

(*g*) by deleting the words "committal hearing," in the definition of "proceeding" in subsection (1);

(*h*) by deleting the definition of "Registrar of the State Courts" in subsection (1) and substituting the following definitions:

" "Registrar of the Family Justice Courts" means the registrar of the Family Justice Courts, and includes the deputy registrar and an assistant registrar of the Family Justice Courts;

"Registrar of the State Courts" means the registrar of the State Courts, and includes a deputy registrar of the State Courts;";

(*i*) by inserting, immediately after the definition of "repealed Code" in subsection (1), the following definition:

" "sexual offence" means —

(*a*) an offence under section 354, 354A, 355, 356, 357, 358, 372, 373, 373A,

375, 376, 376A, 376B, 376C, 376D, 376E, 376F, 376G, 377(3), 377A or 377B(3) of the Penal Code (Cap. 224); or

(*b*) an offence under section 140, 141, 142, 143, 144, 145, 146, 146A, 147 or 148 of the Women's Charter (Cap. 353),

and includes an abetment of, a conspiracy to commit, or an attempt to commit, such an offence;";

(*j*) by deleting the definition of "signed" or "signature" in subsection (1) and substituting the following definition:

"" "signed" or "signature" and its grammatical variations has the same meaning as in section 2(1) of the Electronic Transactions Act (Cap. 88);";

(*k*) by inserting, immediately after the definition of "stolen property" in subsection (1), the following definition:

"" "terrorist act" has the meaning given by section 2(2) and (3) of the Terrorism (Suppression of Financing) Act (Cap. 325);"; and

(*l*) by inserting, immediately after subsection (1), the following subsection:

"(1A) Any power conferred on a court by this Code to make an order for the disposal of any property includes a power to make an order for the forfeiture, confiscation or destruction of the property, or for the delivery of the property to any person, but must be exercised subject to any provisions on forfeiture, confiscation, destruction or delivery in any other written law that is applicable to the case.".

Amendment of section 3

3. Section 3 of the Code is amended —

(*a*) by deleting the word "Any" in subsection (1) and substituting the words "Subject to this section, any";

(*b*) by inserting, immediately after paragraph (*e*) of subsection (1), the following paragraphs:

"(*ea*) by addressing it to that person, and transmitting it to an electronic mail address specified by that person in accordance with subsection (4A);

(*eb*) by addressing it to that person's advocate (if any), and transmitting it to an electronic mail address specified by the advocate in accordance with subsection (4B);";

(*c*) by deleting the word "or" at the end of subsection (1)(*g*)(v), (*h*)(v) and (*i*)(v) and (vi);

(*d*) by inserting, immediately after sub-paragraph (vi) of subsection (1)(*g*), the following sub-paragraphs:

"(vii) by addressing it to that body corporate or limited liability partnership, and transmitting it to an electronic mail address specified by that body corporate or limited liability partnership in accordance with subsection (4A); or

(viii) by addressing it to the advocate (if any) of the body corporate or limited liability partnership, and transmitting it to an electronic mail address specified by the advocate in accordance with subsection (4B);";

(*e*) by inserting, immediately after sub-paragraph (vi) of subsection (1)(*h*), the following sub-paragraphs:

"(vii) by addressing it to that partnership, and transmitting it to an electronic mail address specified by that partnership in accordance with subsection (4A); or

(viii) by addressing it to the advocate (if any) of the partnership, and transmitting it to an electronic mail address specified by the advocate in accordance with subsection (4B);";

(*f*) by inserting, immediately after sub-paragraph (vi) of subsection (1)(*i*), the following sub-paragraphs:

"(vii) by addressing it to that unincorporated association, and transmitting it to an electronic mail address specified by that unincorporated association in accordance with subsection (4A); or

(viii) by addressing it to the advocate (if any) of the unincorporated association, and transmitting it to an electronic mail address specified by the advocate in accordance with subsection (4B); or"; and

(*g*) by inserting, immediately after subsection (4), the following subsections:

"(4A) The notice, order or document may be served in a manner specified in subsection (1)(*ea*), (*g*)(vii), (*h*)(vii) or (*i*)(vii) only if both of the following conditions are satisfied:

(*a*) the person to whom the notice, order or document is to be served gives that person's prior written consent for the notice, order or document to be served in that manner;

(*b*) that person specifies, in that written consent, the electronic mail address to which the notice, order or document is to be transmitted.

(4B) The notice, order or document may be served in a manner specified in subsection (1)(*eb*), (*g*)(viii), (*h*)(viii) or (*i*)(viii) only if both of the following conditions are satisfied:

(*a*) the advocate (if any) of the person to whom the notice, order or document is to be served gives the advocate's prior written consent for the notice, order or document to be served in that manner;

(*b*) the advocate specifies, in that written consent, the electronic mail address to which the notice, order or document is to be transmitted.".

Amendment of section 7

4. Section 7 of the Code is amended —

(*a*) by deleting the words "punishable with a fine only" in subsection (1)(*a*) and substituting the words "a fine-only offence";

(*b*) by deleting paragraph (*b*) of subsection (1); and

(*c*) by deleting the words "and (*b*)" in subsection (2).

Amendment of section 20

5. Section 20 of the Code is amended —

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

"(1) Where a police officer of or above the rank of sergeant, or an authorised person, considers that any document or thing (other than a document or thing in the custody of a Postal Authority or public postal

licensee) is necessary or desirable for any investigation, inquiry, trial or other proceeding under this Code, the police officer or authorised person may —

(*a*) issue a written order to require a person in whose possession or power the document or thing is believed to be —

(i) to produce the document or thing at the time and place stated in the order;

(ii) to give a police officer or an authorised person access to the document or thing; or

(iii) in the case of a document or thing that is in electronic form —

(A) to produce a copy of the document or thing, at the time and place stated in the order; or

(B) to give a police officer or an authorised person access to a copy of the document or thing; or

(*b*) in the case of a document or thing that is contained in or available to a computer — issue a written order to require a person who is believed to have power to access the document or thing from that computer —

(i) to produce a copy of the document or thing, at the time and place stated in the order; or

(ii) to give a police officer or an authorised person access to a copy of the document or thing.

(1A) Without limiting subsection (1), where a police officer of or above the rank of sergeant, or

an authorised person, considers that any data (other than data in the custody of a Postal Authority or public postal licensee) is necessary or desirable for any investigation, inquiry, trial or other proceeding under this Code, the police officer or authorised person may —

(*a*) issue a written order to require a person in whose possession or power the data is believed to be —

(i) to authenticate the data; and

(ii) to produce the data, at the time and place stated in the order; or

(*b*) in the case of any data that is contained in or available to a computer — issue a written order to require a person who is believed to have power to access the data from that computer —

(i) to authenticate a copy of the data; and

(ii) to produce a copy of the data, at the time and place stated in the order.";

(*b*) by deleting the words "Notwithstanding subsection (1), a written order under that subsection" in subsection (2) and substituting the words "Despite subsections (1) and (1A), a written order under subsection (1) or (1A)";

(*c*) by inserting, immediately after the words "a police officer of or above the rank of inspector" in subsection (2)(*a*), the words ", or an authorised person";

(*d*) by deleting subsection (3) and substituting the following subsections:

"(3) If any document or thing in the custody of a Postal Authority or public postal licensee is, in the opinion of the Public Prosecutor, required for any investigation, inquiry, trial or other proceeding under this Code, the Public Prosecutor may issue a written

order to require the Postal Authority or public postal licensee —

(*a*) to deliver that document or thing, at the time and place stated in the order, to a person stated in the order; or

(*b*) in the case of a document or thing that is in electronic form or is contained in or available to a computer — to deliver a copy of that document or thing, at the time and place stated in the order, to a person stated in the order.

(3A) Without limiting subsection (3), if any data in the custody of a Postal Authority or public postal licensee is, in the opinion of the Public Prosecutor, required for any investigation, inquiry, trial or other proceeding under this Code, the Public Prosecutor may —

(*a*) issue a written order to require the Postal Authority or public postal licensee —

(i) to authenticate the data; and

(ii) to produce the data, at the time and place stated in the order; or

(*b*) in the case of any data that is contained in or available to a computer — issue a written order to require the Postal Authority or public postal licensee —

(i) to authenticate a copy of the data; and

(ii) to produce a copy of the data, at the time and place stated in the order.";

(*e*) by deleting the words "document or thing" wherever they appear in subsection (4) and substituting in each case the words "document, thing, data or copy";

(*f*) by inserting, immediately after the words "A police officer" in subsection (5), the words ", or an authorised person,";

(*g*) by inserting, immediately after the words "document or thing" in subsection (5), the words ", or data"; and

(*h*) by deleting subsection (6) and substituting the following subsections:

"(6) The cost incurred by a person in complying with any requirement or written order under this section, or any requirement under any regulations in respect of matter mentioned in section 428(2)(*d*), is to be borne by the person.

(7) Any person who fails to comply with a written order issued under subsection (1), (1A), (3) or (3A), shall be guilty of an offence and shall be liable on conviction —

(*a*) in any case where the person is a body corporate, a limited liability partnership, a partnership or an unincorporated association — to a fine not exceeding $10,000;

(*b*) in any case where the person is an individual, and the written order states that it is issued for the investigation or trial of an arrestable offence — to a fine not exceeding $5,000 or to imprisonment for a term not exceeding 6 months or to both; or

(*c*) in any other case — to a fine not exceeding $1,500 or to imprisonment for a term not exceeding one month or to both.

(8) No liability shall lie against a person who, acting in good faith and with reasonable care, does or omits to do anything in complying with any written order issued under subsection (1), (1A), (3) or (3A), or with

any requirement under any regulations in respect of matter mentioned in section 428(2)(*d*).

(9) In this section —

"authorised person" means —

(*a*) any person who is authorised in writing by the Commissioner of Police for the purposes of this section; or

(*b*) any officer of a prescribed law enforcement agency who is authorised in writing, by the head of that law enforcement agency, for the purposes of this section;

"customer information" has the same meaning as in section 40A of the Banking Act (Cap. 19);

"prescribed law enforcement agency" means a law enforcement agency prescribed, by order in the *Gazette*, by the Minister charged with the responsibility for that law enforcement agency.".

Amendment of section 22

6. Section 22 of the Code is amended by deleting subsection (3) and substituting the following subsections:

"(3) Subject to subsection (5), a statement made by a person examined under this section must be recorded —

(*a*) in writing; or

(*b*) in the form of an audiovisual recording.

(4) Where a statement made by a person examined under this section is recorded in writing, the statement must —

(*a*) be read over to the person;

(*b*) if the person does not understand English, be interpreted for the person in a language that the person understands; and

(*c*) be signed by the person.

(5) Where, before a person makes a statement under this section, any police officer or forensic specialist examining the person reasonably suspects the person of having committed an offence specified in the Third Schedule, any statement made by the person during the examination must be recorded in the form of an audiovisual recording, unless any of the following applies:

(*a*) due to an operational exigency, it is not feasible to record the statement in the form of an audiovisual recording;

(*b*) the equipment designated for recording the statement in the form of an audiovisual recording —

(i) does not work; and

(ii) cannot be repaired or replaced within a reasonable time;

(*c*) the person requests that the statement be recorded in writing instead of in the form of an audiovisual recording, and the police officer or forensic specialist examining the person reasonably believes that the granting of the request will facilitate the investigation.

(6) Despite subsection (5) —

(*a*) a mere failure to comply with subsection (5) does not render a statement by a person examined under this section inadmissible if the statement is otherwise admissible; and

(*b*) no inference is to be drawn by the court from a mere failure to comply with that subsection.

(7) Except as provided in subsection (5), any police officer or forensic specialist examining a person under this section may decide whether a statement made by the person during the examination is to be recorded —

(*a*) in writing; or

(*b*) in the form of an audiovisual recording.".

Amendment of section 23

7. Section 23 of the Code is amended —

(*a*) by deleting subsection (3) and substituting the following subsections:

"(3) Subject to subsection (3B), a statement made by an accused in answer to a notice read to the accused under subsection (1) must be recorded —

(*a*) in writing; or

(*b*) in the form of an audiovisual recording.

(3A) Where a statement made by an accused in answer to a notice read to the accused under subsection (1) is recorded in writing, the statement must —

(*a*) be read over to the accused;

(*b*) if the accused does not understand English, be interpreted for the accused in a language that the accused understands; and

(*c*) be signed by the accused.

(3B) Where, before an accused makes a statement in answer to a notice read to the accused under subsection (1), the accused is charged with or informed that the accused may be prosecuted for an offence specified in the Third Schedule, the statement made by the accused must be recorded in the form of an audiovisual recording, unless any of the following applies:

(*a*) due to an operational exigency, it is not feasible to record the statement in the form of an audiovisual recording;

(*b*) the equipment designated for recording the statement in the form of an audiovisual recording —

(i) does not work; and

(ii) cannot be repaired or replaced within a reasonable time;

(*c*) the accused requests that the statement be recorded in writing instead of in the form of an audiovisual recording, and the police officer or person to whom the accused intends to make the statement reasonably believes that the granting of the request will facilitate the investigation.

(3C) Despite subsection (3B) —

(*a*) a mere failure to comply with subsection (3B) does not render a statement made by an accused in answer to a notice read to the accused under subsection (1) inadmissible, if the statement is otherwise admissible; and

(*b*) no inference is to be drawn by the court from a mere failure to comply with subsection (3B).

(3D) Except as provided in subsection (3B), the police officer or person to whom an accused intends to make a statement, in answer to a notice read to the accused under subsection (1), may decide whether the statement is to be recorded —

(*a*) in writing; or

(*b*) in the form of an audiovisual recording.

(3E) To avoid doubt, nothing in subsection (3) or (3B) prevents or prohibits a police officer or person to whom an accused intends to make a statement in answer to a notice read to the accused under

subsection (1) from arranging for the statement to be recorded both —

(*a*) in writing; and

(*b*) in the form of an audiovisual recording.”; and

(*b*) by deleting subsection (5) and substituting the following subsections:

“(5) Where a statement made by an accused, in answer to a notice read to the accused under subsection (1), is recorded in writing, a copy of the statement must be given to the accused at the end of the recording.

(6) Where a statement made by an accused, in answer to a notice read to the accused under subsection (1), is recorded in the form of an audiovisual recording —

(*a*) if requested by the defence, arrangements must be made for the accused and the accused’s advocate (if any) to view the audiovisual recording of the statement, as soon as practicable after the audiovisual recording is made, at a police station or at any other prescribed place; and

(*b*) if a transcript of the audiovisual recording is made, a copy of the transcript must be given to the accused as soon as practicable after the transcript is made.”.

Amendment of section 24

8. Section 24 of the Code is amended —

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

“(*a*) the court has reason to believe that a person who has been or may be issued an order

under section 20(1), (1A), (3) or (3A), or a summons under section 235(1), would not produce any document or other thing (including data), or a copy of the document or thing, as required by the order or summons;"; and

(*b*) by deleting the words "a document" in subsection (2) and substituting the words "any document or other thing (including data), or any copy of the document or thing,".

Amendment of section 39

9. Section 39 of the Code is amended —

(*a*) by deleting subsections (1), (2) and (3) and substituting the following subsections:

"(1) A police officer or an authorised person investigating an arrestable offence may, at any time —

(*a*) access, inspect and check the operation in or from Singapore of a computer (whether in Singapore or elsewhere) that the police officer or authorised person has reasonable cause to suspect is or has been used in connection with, or contains or contained evidence relating to, the arrestable offence;

(*b*) use any such computer in or from Singapore, or cause any such computer to be used in or from Singapore —

(i) to search any data contained in or available to such computer; and

(ii) to make a copy of any such data;

(*c*) prevent any other person from gaining access to, or using, any such computer (including by changing any username, password or other authentication

information required to gain access to the computer); or

(*d*) order any person —

(i) to stop accessing or using or to not access or use any such computer; or

(ii) to access or use any such computer only under such conditions as the police officer or authorised person may specify.

(2) The police officer or authorised person may also order any of the following persons to provide any assistance mentioned in subsection (2A):

(*a*) any person whom the police officer or authorised person reasonably suspects of using, or of having used, the computer in connection with the arrestable offence;

(*b*) any person having charge of, or otherwise concerned with the operation of, the computer;

(*c*) any person whom the police officer or authorised person reasonably believes has knowledge of or access to any username, password or other authentication information required to gain access to the computer.

(2A) For the purposes of subsection (2), the types of assistance are as follows:

(*a*) assistance to gain access to the computer (including assistance through the provision of any username, password or other authentication information required to gain access to the computer);

(*b*) assistance to prevent a person (other than the police officer or authorised person)

from gaining access to, or using, the computer, including assistance in changing any username, password or other authentication information required to gain access to the computer.

(2B) Without limiting subsection (1), where the police officer or authorised person knows that the computer mentioned in that subsection is located outside Singapore, or does not know whether that computer is located in or outside Singapore, the police officer or authorised person —

(*a*) may exercise the powers under subsection (1) in relation to that computer, or any data contained in or available to that computer, if —

(i) the owner of that computer consents to the exercise of those powers; or

(ii) the police officer or authorised person obtains access to that computer through the exercise of any power of investigation under any written law, such as in any of the following circumstances:

(A) the access is obtained with the assistance mentioned in subsection (2A)(*a*) provided under subsection (2) by a person having charge of, or otherwise concerned with the operation of, that computer;

(B) the access is obtained through an active connection with, or through any username, password or other authentication information stored in, another computer,

which has been seized under section 35 and accessed under subsection (1);

(C) the access is obtained through any username, password or other authentication information contained in any document seized under section 35;

(D) the access is obtained through any username, password or other authentication information provided in any statement made by any person examined under section 22; and

(*b*) may exercise the powers under subsection (1)(*b*) in relation to any data contained in or available to that computer, if the owner of that data consents to the exercise of those powers.

(3) Any person who obstructs the lawful exercise by a police officer or an authorised person of any power under subsection (1)(*a*), (*b*) or (*c*), or who fails to comply with any order of the police officer or authorised person under subsection (1)(*d*) or (2), shall be guilty of an offence and shall be liable on conviction —

(*a*) in any case where the person is a body corporate, a limited liability partnership, a partnership or an unincorporated association — to a fine not exceeding $10,000; or

(*b*) in any other case — to a fine not exceeding $5,000 or to imprisonment for a term not exceeding 6 months or to both.";

(*b*) by deleting the words "subsection (2)" in subsection (5) and substituting the words "subsection (1)(*d*) or (2)"; and

(*c*) by deleting subsection (6) and substituting the following subsection:

"(6) In this section and section 40 —

"authorised person" means —

(*a*) a forensic specialist appointed under section 65A of the Police Force Act (Cap. 235), or any other person, who is authorised in writing by the Commissioner of Police for the purposes of this section or section 40 or both; or

(*b*) any officer of a prescribed law enforcement agency who is authorised in writing, by the head of that law enforcement agency, for the purposes of this section or section 40 or both;

"prescribed law enforcement agency" means a law enforcement agency prescribed, by order in the *Gazette*, by the Minister charged with the responsibility for that law enforcement agency.".

Amendment of section 60

10. Section 60(1) of the Code is amended by deleting the words "or in any visiting force lawfully present in Singapore".

Amendment of section 61

11. Section 61 of the Code is amended by deleting the words "or in any visiting force lawfully present in Singapore".

Amendment of section 62

12. Section 62 of the Code is amended —

(*a*) by deleting the words "or in any visiting force lawfully present in Singapore"; and

(*b*) by deleting the words "of any of the Singapore Armed Forces or of any visiting force lawfully present in Singapore" in paragraph (*d*) and substituting the words "of the Singapore Armed Forces".

Amendment of section 63

13. Section 63 of the Code is amended by deleting subsection (3) and substituting the following subsection:

"(3) In this section, "lawful means" includes —

(*a*) removing a person from any place; and

(*b*) taking away any thing, which a person has in the person's possession, that the police officer reasonably suspects is intended to be used in the commission of the offence.".

Amendment of section 68

14. Section 68(1) of the Code is amended by deleting the word "No" and substituting the words "Unless the court orders otherwise under section 92(3)(*a*) or 93(3B)(*a*), no".

Amendment of section 69

15. Section 69 of the Code is amended —

(*a*) by deleting the words "or director" in subsections (1) and (2)(*b*); and

(*b*) by deleting the words "the head, director or any person of a similar rank" in subsection (2)(*b*) and substituting the words "the head or person of a similar rank".

Repeal and re-enactment of section 83

16. Section 83 of the Code is repealed and the following section substituted therefor:

"**Mode of searching women**

83.—(1) Except as provided in subsection (2), whenever it is necessary to cause a woman to be searched, the search must be made by a relevant officer who is a woman.

(2) A search of a woman may be made by a relevant officer who is a man, if (and only if) all of the following conditions are satisfied:

(*a*) the relevant officer reasonably suspects the woman of committing, attempting to commit, abetting the commission of, or being a party to a criminal conspiracy to commit, a terrorist act;

(*b*) the relevant officer believes in good faith that the terrorist act is imminent;

(*c*) the relevant officer believes in good faith that the search cannot be made within a reasonable time by a relevant officer who is a woman.

(3) Every search mentioned in subsection (1) or (2) must be made with strict regard to decency.

(4) In this section, "relevant officer" means a police officer or an officer of the Immigration & Checkpoints Authority.".

Amendment of section 92

17. Section 92 of the Code is amended —

(*a*) by deleting subsection (2) and substituting the following subsections:

"(2) Despite subsection (1) —

(*a*) the police officer or the court may, instead of taking bail from the person, release the person if the person signs a personal bond without sureties; and

(*b*) the court may, instead of releasing the person on bail, release the person on bail and on personal bond by requiring the person to sign a personal bond without sureties, in addition to taking bail from the person.

(3) Despite subsections (1) and (2), where the person is accused of an offence that is not a fine-only offence, and a court believes, on any ground prescribed in the Criminal Procedure Rules, that the person, if released, will not surrender to custody, be available for investigations or attend court, the court may order as follows:

(*a*) if the person is arrested or detained without warrant by a police officer — order the police officer not to release the person on bail or on personal bond;

(*b*) if the person appears or is brought before the court — refuse to release the person, whether on bail, on personal bond, or on bail and on personal bond.

(4) Where —

(*a*) a State Court orders the release of a person under this section on bail, on personal bond, or on bail and on personal bond; and

(*b*) the prosecution applies to the State Court to stay execution on the order pending a review of the order by the High Court,

the State Court may stay execution on the order pending a review of the order.”; and

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

"**When person must normally be released on bail or personal bond, or on both**".

Amendment of section 93

18. Section 93 of the Code is amended by inserting, immediately after subsection (3), the following subsections:

"(3A) Despite subsections (2) and (3), the court may, instead of releasing the accused on bail or on the accused's own personal bond, release the accused on bail and on personal bond by requiring the accused to sign a personal bond without sureties, in addition to taking bail from the accused.

(3B) Despite subsections (2), (3) and (3A), where there are grounds for further investigations as to whether the accused has committed a bailable offence that is not a fine-only offence, and a court believes, on any ground prescribed in the Criminal Procedure Rules, that the accused, if released, will not surrender to custody, be available for investigations or attend court, the court may —

(*a*) order the police officer not to release the accused on bail or on personal bond; or

(*b*) refuse to release the accused, whether on bail, on personal bond, or on bail and on personal bond.

(3C) Where —

(*a*) a State Court orders the release on bail, on personal bond, or on bail and on personal bond, of a person accused of a non-bailable offence; and

(*b*) the prosecution applies to the State Court to stay execution on the order pending a review of the order by the High Court,

the State Court must stay execution on the order pending a review of the order.".

Repeal and re-enactment of section 94

19. Section 94 of the Code is repealed and the following section substituted therefor:

"**Conditions of bail or personal bond**

94.—(1) All of the following conditions are imposed when a police officer or the court grants bail or releases the accused on personal bond under section 92 or 93, unless the police officer or the court (as the case may be) specifies otherwise:

(*a*) the accused must surrender the accused's travel document;

(*b*) the accused must surrender to custody, be available for investigations, or attend court, on the day and at the time and place appointed for the accused to do so, as the case may be;

(*c*) the accused must not commit any offence while released on bail or on personal bond;

(*d*) the accused must not interfere with any witness or otherwise obstruct the course of justice, whether in relation to the accused or in relation to any other person;

(*e*) in the case of bail — any person offered as surety for an accused in a criminal matter must not be a co-accused in the same matter.

(2) A police officer or the court may impose such other conditions as are necessary when granting bail or releasing the accused on personal bond under section 92 or 93.

(3) The conditions that may be imposed in relation to an accused under subsection (2) include a requirement for the electronic monitoring of the accused's whereabouts.

(4) However, if the prosecution applies to a police officer or the court to impose under subsection (2) the requirement under subsection (3), the police officer or court must do so.".

Amendment of section 95

20. Section 95 of the Code is amended —

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

"(*b*) the accused is accused of any non-bailable offence, and the court believes, on any ground prescribed in the Criminal Procedure Rules, that the accused, if released, will not surrender to custody, be available for investigations or attend court; or";

(*b*) by deleting the word "or" at the end of subsection (2)(*a*); and

(*c*) by deleting the full-stop at the end of paragraph (*b*) of subsection (2) and substituting the word "; or", and by inserting immediately thereafter the following paragraph:

"(*c*) release on bail an accused who has been arrested or taken into custody under a warrant mentioned in subsection (1)(*c*), if the conditions prescribed in the Criminal Procedure Rules for such release are satisfied.".

Repeal and re-enactment of section 97

21. Section 97 of the Code is repealed and the following section substituted therefor:

"**Powers of High Court regarding bail**

97.—(1) Subject to section 95(1) and subsection (2), at any stage of any proceeding under this Code, the High Court may —

(*a*) release any accused before the High Court on bail, on personal bond, or on bail and on personal bond;

(*b*) vary the amount or conditions of the bail or personal bond required by a police officer or a State Court, or

impose such other conditions for the bail or personal bond as the High Court thinks fit;

(*c*) where a State Court orders the release of a person on bail, on personal bond, or on bail and on personal bond, stay execution on the order pending a review of the order by the High Court; or

(*d*) direct that any person who has been released on bail, on personal bond, or on bail and on personal bond, under this Division be arrested, and commit that person to custody.

(2) Where —

(*a*) a State Court orders the release on bail, on personal bond, or on bail and on personal bond, of a person accused of a non-bailable offence; and

(*b*) the prosecution applies to the High Court to stay execution on the order pending a review of the order by the High Court,

the High Court must stay execution on the order pending a review of the order.".

Amendment of section 103

22. Section 103 of the Code is amended —

(*a*) by inserting, immediately after subsection (4), the following subsections:

"(5) A released person shall be guilty of an offence and shall be liable on conviction to a fine or to imprisonment for a term not exceeding 3 years or to both, if the released person knowingly, and without reasonable excuse, fails to comply with any duty imposed on the released person —

(*a*) to surrender to custody;

(*b*) to be available for investigations; or

(*c*) to attend court on the day and at the time and place appointed for the released person to do so.

(6) For the purposes of subsection (5), a released person is presumed, until the contrary is proved, to have no reasonable excuse if —

(*a*) on or before the date of the failure to comply with the duty, the released person left Singapore without the permission of a police officer or the court, as the case may be, and has not returned to Singapore; or

(*b*) on the date of the failure to comply with the duty, the released person, being outside Singapore, remains outside Singapore without the permission of the police officer or the court, as the case may be.”; and

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

“**Absconding or breaking conditions of bail or personal bond, etc.**”.

Amendment of section 104

23. Section 104 of the Code is amended by deleting subsections (2) and (3).

New section 106A

24. The Code is amended by inserting, immediately after section 106, the following section:

“**Prohibition against agreements to indemnify surety, etc.**

106A.—(1) Any agreement (whether made before, on or after the date of commencement of section 24 of the Criminal Justice Reform Act 2018) indemnifying or purporting to indemnify any person against any liability which that person may incur as a surety to a bail bond is void.

(2) Any person who, on or after the date of commencement of section 24 of the Criminal Justice Reform Act 2018, knowingly enters into an agreement mentioned in subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine or to imprisonment for a term not exceeding 3 years or to both.

(3) An offence under subsection (2) is committed —

(*a*) whether the agreement is entered into before or after the person to be indemnified becomes a surety;

(*b*) whether or not the person to be indemnified becomes a surety; and

(*c*) whether the agreement contemplates compensation in money or money's worth.".

Repeal and re-enactment of section 107 and new section 107A

25. Section 107 of the Code is repealed and the following sections substituted therefor:

"**Procedure on forfeiture of personal bond without sureties**

107.—(1) This section provides for the forfeiture of a personal bond without sureties.

(2) If it is proved to a court's satisfaction that the released person bound by the bond has failed, without reasonable excuse, to comply with any duty imposed on the released person to surrender to custody, to be available for investigations, or to attend court on the day and at the time and place appointed for the released person to do so, the court —

(*a*) must record the basis of such proof;

(*b*) must forfeit the bond;

(*c*) may summon before the court the released person;

(*d*) may call upon the released person to pay a sum, being the whole or any part of the amount of the bond, or to explain why the released person should not pay that sum; and

(*e*) may order that the sum mentioned in paragraph (*d*) be paid by instalments.

(3) If the explanation is inadequate, and the sum mentioned in subsection (2)(*d*) is not paid in full, the court may recover the amount unpaid by issuing an order for the attachment of any property, movable or immovable, belonging to the released person —

(*a*) by seizure of such property, which may be sold and the proceeds applied towards the payment of the amount; or

(*b*) by appointing a receiver, who may take possession of and sell such property, and apply the proceeds towards the payment of the amount.

(4) Any person may, not later than 7 days after the date any property is seized under subsection (3)(*a*) or taken possession of by the receiver under subsection (3)(*b*), as the case may be, make a claim against that property by applying to the court for the property to be excluded from the order of attachment issued under subsection (3), and the court may make such order as it sees fit.

(5) If immovable property attached under subsection (3) is sold, the officer under whose direction the attachment and sale was carried out may do any thing or act to transfer the title to the purchaser.

(6) If the sum mentioned in subsection (2)(*d*) is not paid in full and cannot be fully recovered by such attachment and sale, the court may commit to prison the released person for a term not exceeding 12 months.

(7) Any unsatisfied part of the sum mentioned in subsection (2)(*d*) constitutes a judgment debt in favour of the Government, and nothing in this section prevents the Government from recovering it as such.

(8) The court may, on the application of the released person at any time after the released person is called upon to pay the sum

mentioned in subsection (2)(*d*), reduce that sum and enforce part-payment only.

Procedure on forfeiture of bond with sureties

107A.—(1) This section provides for the forfeiture of a bond with one or more sureties.

(2) If it is proved to a court's satisfaction that the released person for whose appearance the bond was executed has failed, without reasonable excuse, to comply with any duty imposed on the released person to surrender to custody, to be available for investigations, or to attend court on the day and at the time and place appointed for the released person to do so, the court —

(*a*) must record the basis of such proof;

(*b*) must forfeit the bond, as far as it relates to the released person;

(*c*) may summon before the court each person bound by the bond;

(*d*) may call upon each surety bound by the bond to explain why the bond, as far as it relates to that surety, should not be forfeited; and

(*e*) may call upon the released person to pay a sum, being the whole or any part of the amount of the bond, or to explain why the released person should not pay that sum.

(3) If the court calls upon the released person to pay the sum mentioned in subsection (2)(*e*), or to explain why the released person should not pay that sum, section 107(3) to (8) applies to the released person as it applies to a released person bound by a personal bond without sureties.

(4) If the explanation given by a surety is inadequate, and it is proved to the court's satisfaction that the surety is in breach of any of the surety's duties mentioned in section 104, the court —

(*a*) must record the basis of such proof; and

(*b*) may, having regard to all the circumstances of the case —

(i) forfeit the whole or any part of the amount of the bond, as far as it relates to the surety; and

(ii) order the surety to pay the amount forfeited.

(5) The court may order that any amount forfeited under subsection (4)(*b*) be paid by instalments.

(6) If any amount forfeited under subsection (4)(*b*) is not paid in full, the court may recover the amount unpaid by issuing an order for the attachment of any property, movable or immovable, belonging to the surety —

(*a*) by seizure of such property, which may be sold and the proceeds applied towards the payment of the amount forfeited; or

(*b*) by appointing a receiver, who may take possession of and sell such property, and apply the proceeds towards the payment of the amount forfeited.

(7) Any person may, not later than 7 days after the date any property is seized under subsection (6)(*a*) or taken possession of by the receiver under subsection (6)(*b*), as the case may be, make a claim against that property by applying to the court for the property to be excluded from the order of attachment issued under subsection (6), and the court may make such order as it sees fit.

(8) If immovable property attached under subsection (6) is sold, the officer under whose direction the attachment and sale was carried out may do any thing or act to transfer the title to the purchaser.

(9) If the amount forfeited under subsection (4)(*b*) is not paid in full and cannot be fully recovered by such attachment and sale, the court may commit to prison the surety for a term not exceeding 12 months.

(10) Any unsatisfied part of the amount forfeited under subsection (4)(*b*) constitutes a judgment debt in favour of the

Government, and nothing in this section prevents the Government from recovering it as such.

(11) The court may, on the application of a surety at any time after the surety is ordered to pay the amount forfeited under subsection (4)(*b*), reduce that amount and enforce part-payment only.".

Repeal and re-enactment of section 108

26. Section 108 of the Code is repealed and the following section substituted therefor:

"**Appeal from orders**

108. Every order made under section 107 or 107A by any Magistrate's Court or District Court is appealable.".

Amendment of section 109

27. Section 109 of the Code is amended by inserting, immediately after the words "section 107", the words "or 107A".

Amendment of section 112

28. Section 112 of the Code is amended —

(*a*) by deleting the words "the head or director" wherever they appear in subsections (1)(*b*) and (*c*) and (4) and substituting in each case the words "the head or an authorised director";

(*b*) by inserting, immediately after subsection (4), the following subsections:

"(4A) Any person who has surrendered that person's travel document under this section must not leave, or attempt to leave, Singapore unless —

(*a*) that person has applied under section 113 for the return of that travel document; and

(*b*) that travel document is returned to that person.

(4B) Any person who knowingly contravenes subsection (4A) shall be guilty of an offence and shall be liable on conviction to a fine or to imprisonment for a term not exceeding 3 years or to both."; and

(*c*) by inserting, immediately before the definition of "authorised officer" in subsection (5), the following definition:

""authorised director", in relation to a law enforcement agency, means a director of that law enforcement agency who is authorised to perform the duties, and exercise the powers, under this section and section 113 of the head of that law enforcement agency;".

Amendment of section 113

29. Section 113(1) of the Code is amended by deleting the words "the head or director" wherever they appear and substituting in each case the words "the head or an authorised director".

Amendment of section 117

30. Section 117 of the Code is amended by inserting, immediately after subsection (4), the following subsection:

"(4A) Subsections (3) and (4) do not apply to any proceeding under Part VIIA.".

Amendment of section 122

31. Section 122(3) of the Code is amended by deleting the words "or a committal hearing".

Amendment of section 124

32. Section 124 of the Code is amended by deleting subsection (2) and substituting the following subsections and illustrations:

"(2) Despite subsection (1), where the accused is charged with any offence mentioned in subsection (3) —

(*a*) it is sufficient for the charge —

(i) to specify the gross sum in respect of which the offence is alleged to have been committed without specifying particular items; and

(ii) to specify the dates between which the offence is alleged to have been committed (being a period that does not exceed 12 months) without specifying exact dates; and

(*b*) the charge so framed is deemed to be a charge of one offence.

(3) For the purposes of subsection (2), the offences are as follows:

(*a*) any offence under section 403, 404, 406, 407, 408, 409, 411, 412, 413 or 414 of the Penal Code (Cap. 224);

(*b*) any offence under section 43, 44, 46 or 47 of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A);

(*c*) any other offence (being an offence involving property) that is prescribed.

(4) Despite subsections (1) and (2) and section 132, where 2 or more incidents of the commission of the same offence by the accused are alleged, and those alleged incidents taken together amount to a course of conduct (having regard to the time, place or purpose of each alleged incident) —

(*a*) it is sufficient to frame one charge for all of those alleged incidents, if all of the following conditions are satisfied:

(i) the charge —

(A) contains a statement that the charge is amalgamated under this subsection;

(B) either —

(BA) specifies the number of separate incidents of the commission of that offence that are alleged, without specifying each particular alleged incident; or

(BB) if the causing of a particular outcome is an element of that offence, contains details of the aggregate outcome caused by all of those alleged incidents, without specifying the particular outcome caused by each particular alleged incident;

(C) contains a statement that all of those alleged incidents taken together amount to a course of conduct; and

(D) specifies the dates between which all of those incidents are alleged to have occurred, without specifying the exact date for each particular alleged incident;

(ii) if a separate charge had been framed in respect of each of those incidents, the maximum punishment for the offence specified in each separate charge would be the same maximum punishment;

(iii) the charge so framed does not specify any offence punishable with death; and

(*b*) the charge so framed is deemed to be a charge of one offence.

Illustrations

(*a*) *A* is charged under section 465 of the Penal Code (Cap. 224) with committing forgery by making a false document. By virtue of section 463 of that Code, *A*'s conduct in making the false document is conduct that is an element of the offence that *A* is charged with.

(*b*) *A* is charged under section 325 of the Penal Code with voluntarily causing grievous hurt to *B*. *A*'s conduct in causing grievous hurt to *B* is conduct that is an element of the offence that *A* is charged with.

(*c*) *A* is charged under section 426 of the Penal Code with committing mischief by setting fire to a dustbin, and thereby causing the destruction of the dustbin. By virtue of section 425 of that Code, the destruction of the dustbin is an outcome (caused by *A*'s conduct of setting fire to the dustbin) that is an element of the offence that *A* is charged with.

(*d*) *A* is charged under section 417 of the Penal Code with cheating *B* by deceiving *B*, and thereby intentionally inducing *B* to do a thing which *B* would not do if *B* were not so deceived. By virtue of section 415 of that Code, the thing that *B* is induced to do is an outcome (caused by *A*'s conduct of deceiving *B*) that is an element of the offence that *A* is charged with.

(5) For the purposes of subsection (4), 2 or more alleged incidents of the commission of an offence, taken together, may amount to a course of conduct, if one or more of the following circumstances exist:

(*a*) where the offence is one that has an identifiable victim, the victim in each alleged incident is the same person or belongs to the same class of persons;

(*b*) all of the alleged incidents involve the employment of the same method or similar methods;

(*c*) all of the alleged incidents occurred in the same place, in similar places, or in places that are located near to each other;

(*d*) all of the alleged incidents occurred within a defined period that does not exceed 12 months.

(6) To avoid doubt, subsection (5) does not contain an exhaustive list of the circumstances where 2 or more alleged incidents of the commission of an offence, taken together, may amount to a course of conduct.

(7) Subsection (4) ceases to apply to 2 or more alleged incidents of the commission of the same offence by the accused,

if the accused indicates that the accused intends to rely on a different defence in relation to each of those alleged incidents.

(8) Subject to subsection (7), where a charge is framed under subsection (2) or (4), and a person is convicted of the offence specified in that charge —

(*a*) the court may sentence that person —

(i) in any case where the charge is framed under subsection (2) — to 2 times the amount of punishment to which that person would otherwise have been liable for that offence; or

(ii) in any case where the charge is framed under subsection (4) — to 2 times the amount of punishment to which that person would otherwise have been liable if that person had been charged with and convicted of any one of the incidents of commission of the offence mentioned in that subsection; but

(*b*) any sentence of caning imposed by the court in respect of that offence must not exceed the specified limit in section 328.

(9) Despite anything to the contrary in this Code, where a Magistrate's Court or District Court would (apart from this section) have jurisdiction and power to try a particular type of offence, and a charge specifying an offence of that type is framed under subsection (2) or (4) — the Magistrate's Court or District Court (as the case may be) —

(*a*) has jurisdiction to hear and determine all proceedings for the offence specified in that charge; and

(*b*) has power to award the full punishment provided under subsection (8) in respect of the offence specified in that charge.

(10) Subsections (8) and (9) do not apply to a charge framed under subsection (2) or (4) in respect of any act or omission that

took place before the date of commencement of section 32 of the Criminal Justice Reform Act 2018.".

Repeal and re-enactment of section 144

33. Section 144 of the Code is repealed and the following section substituted therefor:

"**Joint trials for connected offences**

144. Despite section 143, persons accused of different offences, whether under the same written law or under different written laws, may be charged separately and tried together, if either or both of the following apply:

(*a*) those offences arise from the same series of acts, whether or not those acts form the same transaction;

(*b*) there is any agreement between those persons for each person to engage in conduct from which arises the offence that person is charged with.

Illustrations

(*a*) *A* agrees to let *B* keep his benefits of drug trafficking in *A*'s bank account to avoid detection. *A* and *B* may be separately charged and tried together for offences under sections 43(1)(*a*) and 46(1)(*a*) of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A), respectively, as the offences arise from the same series of acts.

(*b*) *A* sells 10 grams of diamorphine to *B*. Out of the 10 grams of diamorphine, *B* sells 5 grams to *C*. *A*, *B* and *C* may be separately charged and tried together for offences under section 5(1)(*a*) of the Misuse of Drugs Act (Cap. 185) as the offences arise from the same series of acts.

(*c*) *A* has in his possession a secret official code word which has been entrusted in confidence to him by a person holding office under the Government and fails to take reasonable care of the secrecy of the information. As a result of *A*'s failure, *B* comes into possession of the secret official code word and retains it for a purpose prejudicial to the safety of Singapore when he has no right to retain it. *A* and *B* may be separately charged and tried together for offences under sections 5(1)(iv) and 6(2)(*a*) of the Official Secrets Act (Cap. 213), respectively, as the offences arise from the same series of acts.

(*d*) *A* gives *B* a gratification as an inducement for awarding a contract by *B*'s company to *A*. *A* and *B* may be separately charged and tried together for offences under section 6(*b*) and (*a*), respectively, of the Prevention of Corruption Act (Cap. 241) as the offences arise from the same series of acts.

(*e*) Members of opposing factions in an unlawful assembly or a riot may be separately charged and tried jointly as the offence of unlawful assembly or rioting arises from the same series of acts.

(*f*) *A*, *B* and *C* are present when officers from the Corrupt Practices Investigation Bureau conduct a search of certain premises during an investigation into an offence under the Prevention of Corruption Act. *A* states to the officers that there is no evidence of the offence in those premises, when *A* knows the statement is false. *B* overhears *A*'s statement and, knowing *A*'s statement is false, tells *C* to repeat the same false account to the officers. *A* and *B* are charged separately with an offence under section 28(*b*) of the Prevention of Corruption Act and an offence under section 204A of the Penal Code (Cap. 224), respectively. *A* and *B* may be tried together for those offences, as those offences arise from the same series of acts.

(*g*) *A*, *B* and *C* enter into an agreement for *A* to traffic in a controlled drug, *B* to manage a brothel and *C* to import uncustomed goods, with the profits from these activities to be shared among them. *A*, *B* and *C* are charged separately for an offence under section 5(1)(*a*) of the Misuse of Drugs Act, an offence under section 148(1) of the Women's Charter (Cap. 353) and an offence under section 128F of the Customs Act (Cap. 70), respectively. *A*, *B* and *C* may be tried together for those offences, as there was an agreement between those persons for each person to engage in conduct from which arose the offence that person is charged with.

".

Amendment of section 148

34. Section 148(3) of the Code is amended by deleting the words "no committal hearing under Division 2 of Part X or".

New Part VIIA

35. The Code is amended by inserting, immediately after section 149, the following Part:

"PART VIIA

DEFERRED PROSECUTION AGREEMENTS

Interpretation of this Part

149A. In this Part —

"alleged offence" means an offence specified in the Sixth Schedule;

"deferred prosecution agreement" or "DPA" means an agreement entered into between the Public Prosecutor and a person who has been charged with, or whom the Public Prosecutor is considering prosecuting for, an alleged offence, under which —

(*a*) the person agrees to comply with the requirements imposed on the person by the agreement; and

(*b*) the Public Prosecutor agrees that, upon the approval of the agreement by the High Court under section 149F, sections 149C and 149I apply in relation to the prosecution of the person for the alleged offence;

"give public notice", in relation to a matter, means to cause a notice of the matter to be published in the *Gazette*;

"subject" means a person who enters into a DPA with the Public Prosecutor.

Entering into DPA, etc.

149B.—(1) A DPA may be entered into in respect of any alleged offence, whether alleged to have been committed before, on or after the date of commencement of section 35 of the Criminal Justice Reform Act 2018.

(2) A DPA in respect of an alleged offence —

(*a*) may be entered into before, on or after the date on which a subject is charged with the alleged offence; but

(*b*) cannot be entered into after the commencement of the trial for that alleged offence.

(3) One DPA may be entered into in respect of 2 or more different alleged offences.

(4) A person may choose whether to enter into a DPA with the Public Prosecutor.

(5) Before a DPA is in force, any party to the DPA may withdraw from any negotiation concerning the DPA, from the DPA itself, and from any proceeding under section 149F relating to the DPA, without giving any reason for the withdrawal.

Effect of DPA on court proceedings while DPA is in force

149C. After a DPA is entered into between the Public Prosecutor and a subject in respect of an alleged offence, the following apply:

(*a*) if the subject has been charged with the alleged offence, the subject is deemed to have been granted a discharge not amounting to an acquittal in relation to the alleged offence, when the DPA comes into force;

(*b*) while the DPA is in force, the subject cannot be prosecuted for the alleged offence in any criminal proceedings;

(*c*) while the DPA is in force, any limitation period or time limit for the commencement of any of the following matters is suspended:

(i) the prosecution of the alleged offence;

(ii) any civil penalty action in respect of the alleged offence;

(iii) any proceedings for an order for disgorgement of a benefit derived from the alleged offence;

(iv) any proceedings for the confiscation of any property that —

(A) is used, or intended to be used, for the commission of the alleged offence; or

(B) constitutes a benefit derived from the alleged offence;

(v) any disciplinary proceedings, or other proceedings relating to the imposition of any regulatory measure, under any written law, that arise from the facts of the alleged offence.

Persons who may enter into DPA with Public Prosecutor

149D.—(1) A subject may be a body corporate, a limited liability partnership, a partnership or an unincorporated association, but cannot be an individual.

(2) In the case of a DPA between the Public Prosecutor and a partnership —

(*a*) the DPA must be entered into in the name of the partnership (and not in the name of any of the partners); and

(*b*) any money payable under the DPA must be paid out of the funds of the partnership.

(3) In the case of a DPA between the Public Prosecutor and an unincorporated association —

(*a*) the DPA must be entered into in the name of the association (and not in the name of any of its members); and

(*b*) any money payable under the DPA must be paid out of the funds of the association.

(4) A subject must be represented by an advocate at the time the subject enters into a DPA.

Content of DPA

149E.—(1) A DPA must contain —

(*a*) a charge or draft charge (prepared by the Public Prosecutor) relating to the alleged offence; and

(*b*) a statement of facts relating to the alleged offence, which may include admissions made by the subject that enters into the DPA.

(2) A DPA must specify a date (called in this Part the expiry date) on which the DPA ceases to have effect if the DPA is not already terminated under section 149G.

(3) The requirements that a DPA may impose on the subject that enters into the DPA include, but are not limited to, the following requirements:

(*a*) to pay to the Public Prosecutor a financial penalty;

(*b*) to compensate victims of the alleged offence;

(*c*) to donate money to a charity or any other third party;

(*d*) to disgorge any profits made by the subject from the alleged offence;

(*e*) to implement a compliance programme, or make changes to an existing compliance programme, relating to the subject's policies or to the training of the subject's employees or both;

(*f*) to appoint a person —

(i) to assess and monitor the subject's internal controls;

(ii) to advise the subject, and the Public Prosecutor, of any improvements to the subject's compliance programme that are necessary, or that will reduce the risk of a recurrence of any conduct prohibited by the DPA; and

(iii) to report to the Public Prosecutor any misconduct in the implementation of the subject's compliance programme or internal controls;

(*g*) to cooperate in —

(i) any investigation relating to the alleged offence; and

(ii) any investigation relating to any possible offence, committed by any officer, employee or agent of the subject, that arises from the same or substantially the same facts as the alleged offence;

(*h*) to pay any reasonable costs of the Public Prosecutor in relation to the alleged offence or the DPA.

(4) A DPA may impose time limits within which the subject of the DPA must comply with the requirements imposed on the subject.

(5) A DPA may include a term setting out the consequences of a failure by the subject of the DPA to comply with any of its terms.

Court approval of DPA

149F.—(1) When the Public Prosecutor and the subject have agreed on the terms of a DPA, the Public Prosecutor must apply by criminal motion to the High Court for a declaration (called in this section the relevant declaration) that —

(*a*) the DPA is in the interests of justice; and

(*b*) the terms of the DPA are fair, reasonable and proportionate.

(2) At the hearing of an application under subsection (1) —

(*a*) the Public Prosecutor and the subject may submit on the application jointly or separately; and

(*b*) the High Court may —

(i) make the relevant declaration;

(ii) refuse the application; or

(iii) adjourn the hearing of the application —

(A) for the Public Prosecutor and the subject to amend the DPA; or

(B) for any other reason.

(3) A DPA comes into force only when the High Court approves the DPA by making the relevant declaration.

(4) An application under subsection (1) must be heard and dealt with in camera.

(5) Upon the High Court making a relevant declaration, the Public Prosecutor must give public notice of the following, unless the Public Prosecutor is prohibited from doing so by or under any written law or by an order of the High Court under section 149J(1) or (2):

(*a*) the DPA to which the relevant declaration relates;

(*b*) the relevant declaration;

(*c*) if any reasons are given by the High Court for its decision to make the relevant declaration, those reasons.

(6) A refusal by the High Court of an application under subsection (1) in respect of a DPA entered into between the Public Prosecutor and a subject in respect of an alleged offence, does not prevent the Public Prosecutor from making another application under that subsection, for a relevant declaration in respect of a different DPA entered into with the same subject in respect of the same alleged offence.

Breach of DPA

149G.—(1) If the Public Prosecutor believes that the subject that entered into a DPA has failed to comply with the terms of the DPA, the Public Prosecutor may make an application to the High Court under this section.

(2) On an application under subsection (1), the Public Prosecutor must prove, on a balance of probabilities, that the subject that entered into a DPA has failed to comply with the terms of the DPA.

(3) If the High Court is satisfied that the subject that entered into a DPA has failed to comply with the terms of the DPA, the High Court must terminate the DPA.

(4) Where the High Court decides that the subject that entered into a DPA did not fail to comply with the terms of the DPA, the Public Prosecutor must give public notice of the following, unless the Public Prosecutor is prohibited from doing so by or under any written law or by an order of the High Court under section 149J(1) or (2):

(*a*) the decision of the High Court;

(*b*) if any reasons are given by the High Court for that decision, those reasons.

(5) Where the High Court terminates a DPA under subsection (3), the Public Prosecutor must give public notice of the following, unless the Public Prosecutor is prohibited from doing so by or under any written law or by an order of the High Court under section 149J(1) or (2):

(*a*) the fact that the DPA has been terminated by the High Court following a failure by the subject that entered into the DPA to comply with the terms of the DPA;

(*b*) if any reasons are given by the High Court for its decisions under subsections (2) and (3), those reasons.

(6) Where the High Court terminates a DPA under subsection (3), the subject —

(*a*) is not entitled to recover any money that the subject had paid, before the termination, pursuant to any requirement imposed by the DPA; and

(*b*) is not entitled to any relief for any detriment caused to the subject by the subject's compliance with the terms of the DPA before the termination.

Variation of terms of DPA

149H.—(1) At any time when a DPA is in force, the Public Prosecutor and the subject that entered into the DPA may agree to vary the terms of the DPA.

(2) When the Public Prosecutor and the subject that entered into a DPA have agreed to vary the terms of the DPA, the Public Prosecutor must apply by criminal motion to the High Court for a declaration (called in this section the relevant declaration) that —

(*a*) the variation is in the interests of justice; and

(*b*) the terms of the DPA as varied are fair, reasonable and proportionate.

(3) A variation of the terms of a DPA only takes effect when the High Court approves the variation by making the relevant declaration.

(4) Where the High Court decides to approve the variation, the Public Prosecutor must give public notice of the following, unless the Public Prosecutor is prohibited from doing so by or under any written law or by an order of the High Court under section 149J(1) or (2):

(*a*) the DPA as varied;

(*b*) the relevant declaration;

(*c*) if any reasons are given by the High Court for its decision to make the relevant declaration, those reasons.

(5) Where the High Court decides not to approve the variation, the Public Prosecutor must give public notice of the following, unless the Public Prosecutor is prohibited from doing so by or under any written law or by an order of the High Court under section 149J(1) or (2):

(*a*) the decision of the High Court;

(*b*) if any reasons are given by the High Court for that decision, those reasons.

Expiry of DPA

149I.—(1) If a DPA in respect of an alleged offence remains in force until its expiry date, then after the DPA has expired —

(*a*) the Public Prosecutor must —

(i) give written notice to the High Court that the Public Prosecutor does not intend to prosecute the subject for the alleged offence; and

(ii) give public notice that the Public Prosecutor has given that written notice to the High Court, unless the Public Prosecutor is prohibited from doing so by or under any written law or by an order of the High Court under section 149J(1) or (2); and

(*b*) except as provided in subsection (2), the subject cannot be prosecuted for the alleged offence after the Public Prosecutor gives that written notice to the High Court.

(2) Despite subsection (1), the Public Prosecutor may initiate new criminal proceedings against the subject that entered into a DPA in respect of the alleged offence in that DPA, if the Public Prosecutor finds (whether before, on or after the expiry date of the DPA) that during the course of the negotiations for the DPA (including any variation of the terms of the DPA that is approved by the High Court under section 149H) —

(*a*) the subject provided inaccurate, misleading or incomplete information to the Public Prosecutor; and

(*b*) the subject knew or ought to have known that the information was inaccurate, misleading or incomplete.

(3) Where —

(*a*) a DPA is entered into between the Public Prosecutor and a subject in respect of an alleged offence;

(*b*) the subject is deemed under section 149C(*a*) to have been granted a discharge not amounting to an acquittal in relation to the alleged offence; and

(*c*) the DPA remains in force until its expiry date,

after the DPA has expired, the High Court may, on the application of the Public Prosecutor, grant the subject a discharge amounting to an acquittal in relation to the alleged offence.

(4) For the purposes of subsections (1) and (3), a DPA is not to be treated as having expired if an application by the Public Prosecutor under section 149G, about an alleged failure by the subject that entered into the DPA to comply with the terms of the DPA, is pending on the expiry date of the DPA.

(5) In the case mentioned in subsection (4) —

(*a*) if the High Court decides that the subject did not fail to comply with the terms of the DPA, the DPA is to be treated as expiring when the application under section 149G is decided; or

(*b*) if the High Court terminates the DPA —

(i) the DPA is to be treated as not having remained in force until its expiry date; and

(ii) therefore, subsections (1) and (3) do not apply.

Publication of information

149J.—(1) The High Court may postpone the giving of public notice under section 149F(5), 149G(4) or (5), 149H(4) or (5) or 149I(1)(*a*)(ii) for such period as the High Court considers necessary, if it appears to the High Court that the postponement is necessary to avoid substantial risk of prejudice to the administration of justice in —

(*a*) any legal proceedings;

(*b*) any investigation under this Code; or

(*c*) any criminal investigation under any other written law.

(2) In any proceedings under this Part, the High Court may, if satisfied that it is expedient in the interests of justice, public safety, public security or propriety, or for other sufficient reason, to do so, make either or both of the following orders:

(*a*) an order that any information, which is contained in any court document intended to be produced before the court, be removed or be sufficiently redacted;

(*b*) an order that no person is to publish any such information, or do any other act that is likely to lead to the publication of any such information.

(3) Any person who does any act in contravention of an order under subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $5,000 or to imprisonment for a term not exceeding 3 years or to both.

Use of material in criminal proceedings

149K.—(1) Subsections (2) and (3) apply where a DPA in respect of an alleged offence is approved by the High Court under section 149F.

(2) The statement of facts contained in the DPA is, in any criminal proceedings brought against the subject for the alleged offence, to be treated as an admission by the subject under section 267.

(3) However, the admission mentioned in subsection (2) cannot be withdrawn by the subject under section 267(4).

(4) Subsections (5) and (6) apply where the Public Prosecutor and a subject have entered into negotiations for a DPA in respect of an alleged offence, but the DPA has not been approved by the High Court under section 149F.

(5) The material described in subsection (6) may be used in evidence against the subject only —

(*a*) on a prosecution for an offence consisting of the provision of inaccurate, misleading or incomplete information; or

(*b*) on a prosecution for some other offence, if both of the following apply:

(i) in giving evidence, the subject makes a statement that is not consistent with the material;

(ii) evidence relating to the material is adduced, or a question relating to the material is asked, by or on behalf of the subject in the proceedings arising out of the prosecution.

(6) For the purposes of subsection (5), the material is either or both of the following:

(*a*) material that shows that the subject entered into negotiations for a DPA, including, in particular —

(i) any draft of the DPA;

(ii) any draft of a statement of facts intended to be included within the DPA; and

(iii) any statement indicating that the subject entered into such negotiations;

(*b*) material that was created solely for the purpose of preparing the DPA or statement of facts.

(7) Any material or information obtained by the Public Prosecutor in the course of negotiations for a DPA or proceedings under this Part (other than the material described in subsection (6)) may, if determined (in accordance with the rules of evidence under written law and any relevant rules of law) to be admissible in evidence, be used against the subject that enters into the DPA or any other person in any criminal proceedings relating to any offence.

Money received by prosecutor under DPA

149L. Any money received by the Public Prosecutor under any of the following terms of a DPA must be paid into the Consolidated Fund:

(*a*) a term requiring the subject that enters into the DPA to pay a financial penalty to the Public Prosecutor;

(*b*) a term requiring the subject that enters into the DPA to disgorge any profits made by the subject from the alleged offence.

Appeals from certain decisions under this Part

149M.—(1) The following decisions of the High Court under this Part are appealable:

(*a*) a decision, on an application under section 149F(1), not to approve a DPA;

(*b*) a decision, on an application under section 149G(1), that the subject that entered into a DPA has failed to comply with the terms of the DPA;

(*c*) a decision, on an application under section 149G(1), that the subject that entered into a DPA did not fail to comply with the terms of the DPA;

(*d*) a decision, on an application under section 149H(2), not to approve a variation of the terms of a DPA.

(2) An appeal against a decision mentioned in subsection (1)(*a*) or (*d*) may only be made by the Public Prosecutor.

(3) An appeal against a decision mentioned in subsection (1)(*b*) or (*c*) may be made by the Public Prosecutor or the subject concerned.

(4) An appeal against a decision mentioned in subsection (1)(*a*) must be heard and dealt with in camera.

(5) A refusal by the Court of Appeal, on an appeal against a decision mentioned in subsection (1)(*a*), to approve a DPA entered into between the Public Prosecutor and a subject in respect of an alleged offence, does not prevent the Public Prosecutor from making another application under section 149F(1), for the approval of a different DPA entered into with the same subject in respect of the same alleged offence.".

Repeal and re-enactment of section 156

36. Section 156 of the Code is repealed and the following section substituted therefor:

"**Absence of accused**

156.—(1) The following apply where an accused does not appear at the time and place mentioned in the summons or notice to attend court:

(*a*) the court may proceed ex parte to hear and determine the complaint if —

(i) the court is satisfied on oath that —

(A) the summons or notice was duly served on the accused at least 7 days (or such shorter period as the court may consider reasonable in a particular case) before the time appointed in the summons or notice for appearing; and

(B) the accused was notified, when the summons or notice was served on the accused, that the court may hear and determine the complaint in the absence of the accused, if the accused fails to appear at the time and place mentioned in the summons or notice; and

(ii) no sufficient ground is shown for an adjournment;

(*b*) unless the court proceeds ex parte under paragraph (*a*) to hear and determine the complaint, the court must postpone the hearing to a future day.

(2) Where the court has proceeded ex parte under subsection (1)(*a*) to hear and determine the complaint, the accused may apply to the court to declare the ex parte proceedings to be void.

(3) The court can and must make a declaration that the ex parte proceedings are void only if the accused proves, on a balance of probabilities, that —

(*a*) the accused was unaware of both of the following until after the ex parte proceedings began:

(i) the summons or notice to attend court;

(ii) the ex parte proceedings; and

(*b*) the accused made the application under subsection (2) within 21 days after the date on which the accused first knew of either of the following:

(i) the summons or notice to attend court;

(ii) the ex parte proceedings.

(4) Subsections (2) and (3) do not apply to an accused body corporate, limited liability partnership, partnership or unincorporated association that —

(*a*) does not appear at the time and place mentioned in the summons or notice to attend court; or

(*b*) fails to comply with the legal formalities relating to the appointment of a representative who purports to appear for the accused body corporate, limited liability partnership, partnership or unincorporated association at the time and place mentioned in the summons or notice to attend court.

(5) The accused is not discharged by a declaration made under subsection (3).

(6) Subsections (2) and (3) do not affect any right to appeal against any decision made by the court in the ex parte proceedings.".

Amendment of section 159

37. Section 159(2) of the Code is amended —

(*a*) by deleting the words "the accused" and substituting the words "the defence"; and

(*b*) by deleting the word "he" and substituting the words "the accused".

Amendment of section 160

38. Section 160 of the Code is amended —

(*a*) by deleting the words "the accused" in subsection (1) and substituting the words "the defence"; and

(*b*) by deleting subsection (4) and substituting the following subsection:

"(4) Where the defence informs the court during any criminal case disclosure conference conducted under this Division that the accused intends to plead guilty to the charge, the court must fix a date for the accused's plea to be taken in accordance with Division 3 of Part XI.".

Amendment of section 161

39. Section 161 of the Code is amended —

(*a*) by deleting the words "the accused does not indicate that he wishes to plead guilty" in subsection (2) and substituting the words "the defence does not indicate that the accused wishes to plead guilty"; and

(*b*) by deleting the words "the accused indicates that he wishes to claim trial" in subsection (3) and substituting the words "the defence indicates that the accused wishes to claim trial".

Amendment of section 162

40. Section 162 of the Code is amended —

(*a*) by deleting the word "and" at the end of paragraph (*d*);

(*b*) by deleting the words "any statement" in paragraph (*e*) and substituting the words "any written statement";

(*c*) by deleting the full-stop at the end of paragraph (*e*) and substituting a semi-colon, and by inserting immediately thereafter the following paragraphs:

"(*f*) a list of every statement, made by the accused at any time to an officer of a law enforcement agency under any law, that is recorded in the form of an audiovisual recording, and that the prosecution intends to adduce in evidence as part of the case for the prosecution; and

(*g*) for every statement mentioned in paragraph (*f*), a transcript (if any) of the audiovisual recording of that statement.";

(*d*) by deleting the words "3 separate statements" in paragraph (*c*) of the *Illustrations* and substituting the words "3 separate written statements"; and

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

"(2) Where the Case for the Prosecution has been served on the defence, the prosecution must, if requested by the defence, arrange for the defence to view the audiovisual recording of each statement mentioned in subsection (1)(*f*) at a police station or at any other prescribed place.".

Amendment of section 163

41. Section 163 of the Code is amended —

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

"(1) At the further criminal case disclosure conference held on the date mentioned in section 161(4), or such other date to which the further criminal case disclosure conference has been adjourned under section 238, if the defence does not

indicate that the accused wishes to plead guilty, the defence must —

(*a*) file in court the Case for the Defence; and

(*b*) serve a copy of that Case on the prosecution and on every co-accused who is claiming trial with the accused (if any),

not later than 2 weeks after the date on which the further criminal case disclosure conference is held."; and

(*b*) by deleting the words "the accused" in subsection (2) and substituting the words "the defence".

Amendment of section 166

42. Section 166 of the Code is amended —

(*a*) by deleting the words "within 2 weeks from the date of service, serve on the accused" in subsection (1) and substituting the words "within 2 weeks after the date on which the Case for the Defence is served, serve on the defence";

(*b*) by deleting the words "all other statements" in subsection (1)(*a*) and substituting the words "every other written statement";

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

"(*aa*) for every other statement given by the accused and recorded, in the form of an audiovisual recording, by an officer of a law enforcement agency under any law in relation to the charge or charges that the prosecution intends to proceed with at the trial, a transcript (if any) of the audiovisual recording of that statement;

(*b*) each documentary exhibit mentioned in section 162(*d*); and"; and

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

"(2) Where the documents mentioned in subsection (1) have been served on the defence, the prosecution must, if requested by the defence, arrange for the defence to view the audiovisual recording of each statement mentioned in subsection (1)(*aa*) at a police station or at any other prescribed place.

(3) Where the Case for the Defence has not been served on the prosecution, the prosecution —

(*a*) need not serve on the defence any written statement, exhibit, transcript or record mentioned in subsection (1);

(*b*) need not arrange for the viewing mentioned in subsection (2) of the audiovisual recording of any statement mentioned in subsection (1)(*aa*); and

(*c*) may use any such statement, exhibit, transcript, record or audiovisual recording at the trial.

(4) Where the Case for the Defence has been served on the prosecution, the defence must, within 2 weeks after the date on which the Case for the Defence is served, serve on the prosecution a copy of each documentary exhibit that is set out in the list mentioned in section 165(1)(*c*) and is in the possession, custody or power of the accused.

(5) The obligations of the prosecution under subsections (1) and (2) and the obligation of the defence under subsection (4) are independent of each other.".

Amendment of section 167

43. Section 167 of the Code is amended by deleting the words "the accused does not indicate that he wishes to plead guilty" and

substituting the words "the defence does not indicate that the accused wishes to plead guilty".

Amendment of section 169

44. Section 169 of the Code is amended —

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

"(*a*) the prosecution fails to serve the Case for the Prosecution on the defence, or the defence fails to serve the Case for the Defence after the Case for the Prosecution has been served on the defence;";

(*b*) by deleting the word "or" at the end of paragraph (*b*) of subsection (1), and by inserting immediately thereafter the following paragraphs:

"(*ba*) the prosecution fails to serve on the defence any copy of a statement, transcript, documentary exhibit or criminal record that the prosecution is required under section 166(1) to serve on the defence;

(*bb*) the defence fails to serve on the prosecution a copy of each documentary exhibit that is set out in the list mentioned in section 165(1)(*c*) and is in the possession, custody or power of the accused; or"; and

(*c*) by deleting subsection (2) and substituting the following subsection:

"(2) A court may order a discharge not amounting to an acquittal in relation to a charge that the prosecution intends to proceed with at trial, if —

(*a*) the prosecution fails to serve the Case for the Prosecution in respect of that charge within the time permitted under section 161;

(*b*) the Case for the Prosecution does not contain any or any part of the items specified in section 162; or

(*c*) the prosecution fails to serve on the defence, within the time permitted under section 166(1), any copy of a statement, transcript, documentary exhibit or criminal record that the prosecution is required under that provision to serve on the defence.".

Amendment of section 172

45. Section 172 of the Code is amended —

(*a*) by deleting the words "sections 195 and 217" in the definition of "Case for the Defence" and substituting the words "section 217"; and

(*b*) by deleting the words "sections 176(4) and 214" in the definition of "Case for the Prosecution" and substituting the words "section 214".

Repeal and re-enactment of section 175

46. Section 175 of the Code is repealed and the following section substituted therefor:

"**Procedure for cases to be tried in High Court**

175. The transmission procedures under Division 5 apply to every offence that is to be tried in the High Court.".

Repeal of Divisions 2, 3 and 4 of Part X

47. The Code is amended by repealing Divisions 2, 3 and 4 of Part X.

Amendment of section 210

48. Section 210 of the Code is amended —

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

"(1) Where the Public Prosecutor is of the opinion that an offence must or ought to be tried in the High Court, the Public Prosecutor must, by fiat in writing signed by the Public Prosecutor, designate the High Court to try the offence."; and

(*b*) by inserting, immediately after subsection (2), the following subsection:

"(3) To avoid doubt, a Magistrate's Court can continue to exercise powers under Division 5 of Part VI in relation to a case that has been transmitted under subsection (2) to the High Court for the purpose of trial.".

New section 211A

49. The Code is amended by inserting, immediately after section 211, the following section:

"**When criminal case disclosure procedures apply**

211A.—(1) The criminal case disclosure procedures in this Division apply to any offence —

(*a*) that must be tried in the High Court; or

(*b*) that —

(i) is set out in a written law specified in the Second Schedule; and

(ii) the Public Prosecutor designates the High Court to try.

(2) The criminal case disclosure procedures in this Division also apply to any offence that is to be tried in the High Court, but is not mentioned in subsection (1), if all parties consent to have those procedures apply to that offence.".

Amendment of section 212

50. Section 212 of the Code is amended —

(*a*) by deleting the word "After" in subsection (1) and substituting the words "Where the criminal case

disclosure procedures in this Division apply by virtue of section 211A, after";

(*b*) by deleting the words "the accused and the prosecution" in subsection (1) and substituting the words "the prosecution and the defence"; and

(*c*) by deleting subsection (3) and substituting the following subsection:

"(3) Where the defence informs the Registrar of the Supreme Court during any criminal case disclosure conference conducted under this Division that the accused intends to plead guilty to the charge, the Registrar must fix a date for the accused's plea to be taken in accordance with Division 3 of Part XI.".

Amendment of section 213

51. Section 213 of the Code is amended —

(*a*) by deleting the words "the accused does not indicate that he wishes to plead guilty" in subsection (1) and substituting the words "the defence does not indicate that the accused wishes to plead guilty"; and

(*b*) by deleting the words "the accused indicates that he wishes to claim trial" in subsection (2) and substituting the words "the defence indicates that the accused wishes to claim trial".

Amendment of section 214

52. Section 214 of the Code is amended —

(*a*) by deleting the word "and" at the end of paragraph (*d*);

(*b*) by deleting the words "any statement" in paragraph (*e*) and substituting the words "any written statement";

(*c*) by deleting the full-stop at the end of paragraph (*e*) and substituting a semi-colon, and by inserting immediately thereafter the following paragraphs:

"(*f*) a list of every statement, made by the accused at any time to an officer of a law enforcement agency under any law, that is recorded in the form of an audiovisual recording, and that the prosecution intends to adduce in evidence as part of the case for the prosecution;

(*g*) for every statement mentioned in paragraph (*f*), a transcript (if any) of the audiovisual recording of that statement."; and

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

"(2) Where the Case for the Prosecution has been served on the defence, the prosecution must, if requested by the defence, arrange for the defence to view the audiovisual recording of each statement mentioned in subsection (1)(*f*) at a police station or at any other prescribed place.".

Amendment of section 215

53. Section 215(1) of the Code is amended —

(*a*) by deleting the words "the accused does not indicate that he" in paragraph (*a*) and substituting the words "the defence does not indicate that the accused";

(*b*) by deleting the word "him" in paragraph (*a*) and substituting the words "the accused"; and

(*c*) by deleting the words "the accused indicates that he" in paragraph (*b*) and substituting the words "the defence indicates that the accused".

Amendment of section 218

54. Section 218 of the Code is amended —

(*a*) by deleting the words "within 2 weeks from the date of service, serve on the accused or his advocate" in subsection (1) and substituting the words "within 2 weeks after the date on which the Case for the Defence is served, serve on the defence";

(*b*) by deleting the words "all other statements" in subsection (1)(*a*) and substituting the words "every other written statement";

(*c*) by deleting the word "and" at the end of paragraph (*a*) of subsection (1), and by inserting immediately thereafter the following paragraph:

"(*aa*) for every other statement given by the accused and recorded, in the form of an audiovisual recording, by an officer of a law enforcement agency under any law in relation to the charge or charges that the prosecution intends to proceed with at the trial, a transcript (if any) of the audiovisual recording of that statement; and"; and

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

"(2) Where the documents mentioned in subsection (1) have been served on the defence, the prosecution must, if requested by the defence, arrange for the defence to view the audiovisual recording of each statement mentioned in subsection (1)(*aa*) at a police station or at any other prescribed place.

(3) Where the Case for the Defence has not been served on the prosecution, the prosecution —

(*a*) need not serve on the defence any written statement, transcript or record mentioned in subsection (1);

(*b*) need not arrange for the viewing mentioned in subsection (2) of the audiovisual recording of any statement mentioned in subsection (1)(*aa*); and

(*c*) may use any such statement, transcript, record or audiovisual recording at the trial.

(4) Where the Case for the Defence has been served on the prosecution, the defence must, within 2 weeks after the date on which the Case for the Defence is served, serve on the prosecution a copy of each documentary exhibit that is set out in the list mentioned in section 217(1)(*c*) and is in the possession, custody or power of the accused.

(5) The obligations of the prosecution under subsections (1) and (2) and the obligation of the defence under subsection (4) are independent of each other.".

Amendment of section 219

55. Section 219 of the Code is amended by deleting the words "the accused does not indicate that he" and substituting the words "the defence does not indicate that the accused".

New section 220A

56. The Code is amended by inserting, immediately after section 220, the following section:

"**Pre-trial conference**

220A. Regardless whether the criminal case disclosure procedures in this Division apply by virtue of section 211A, the Registrar of the Supreme Court may, at any time, fix the date for and conduct a pre-trial conference to settle any administrative matter in relation to a trial.".

Amendment of section 221

57. Section 221 of the Code is amended by deleting the word "or" at the end of paragraph (*a*), and by inserting immediately thereafter the following paragraphs:

"(*aa*) the prosecution fails to serve on the defence any copy of a statement, transcript or criminal record that the prosecution is required under section 218(1) to serve on the defence;

(*ab*) the defence fails to serve on the prosecution a copy of each documentary exhibit that is set out in the list mentioned in section 217(1)(*c*) and is in the possession, custody or power of the accused; or".

Amendment of section 224

58. Section 224(1) of the Code is amended —

(*a*) by deleting ", 176(4)" in paragraph (*a*);

(*b*) by deleting ", 195(1)" in paragraph (*b*); and

(*c*) by deleting ", 196(1)" in paragraph (*c*).

Amendment of section 225

59. Section 225(1) of the Code is amended —

(*a*) by deleting ", 176(4)" in paragraph (*a*);

(*b*) by deleting ", 195(1)" in paragraph (*b*); and

(*c*) by deleting ", 196(1)" in paragraph (*c*).

New sections 225A and 225B

60. The Code is amended by inserting, immediately after section 225, the following sections:

"**Restrictions on use of material disclosed by prosecution**

225A.—(1) Where the prosecution discloses (whether before, on or after the date of commencement of section 60 of the Criminal Justice Reform Act 2018) any material to the accused

or the accused's advocate (if any) for the purposes of any criminal proceedings —

(*a*) that material may be disclosed, for the purposes of those criminal proceedings, to any co-accused in those criminal proceedings, or to the advocate (if any) of any such co-accused, by any of the following persons:

(i) the accused;

(ii) the accused's advocate (if any);

(iii) any other co-accused or advocate to whom that material was disclosed under this paragraph; and

(*b*) on and after the date of commencement of section 60 of the Criminal Justice Reform Act 2018, each of the following persons is deemed to give an undertaking to the court not to use that material for any purpose (other than the purposes of those criminal proceedings) without the permission of the Public Prosecutor:

(i) the accused;

(ii) the accused's advocate (if any);

(iii) any co-accused or advocate to whom that material is disclosed under paragraph (*a*).

(2) Subsection (1) applies regardless whether the material is disclosed by the prosecution voluntarily or pursuant to any written law or rule of law or any order of court.

(3) The undertaking in subsection (1)(*b*) ceases to apply to that material after that material is adduced as evidence in court in those criminal proceedings.

Mode of disclosing statement recorded in form of audiovisual recording

225B.—(1) This section applies where any rule of law requires the prosecution to disclose to the defence any

statement made by a person examined under section 22 that is recorded in the form of an audiovisual recording.

(2) The prosecution is not required to produce either of the following to the defence:

(*a*) the audiovisual recording of the statement;

(*b*) a copy of that audiovisual recording.

(3) The prosecution must, if requested by the defence, arrange for the defence to view the audiovisual recording of the statement at a police station or at any other prescribed place.".

Amendment of section 227

61. Section 227 of the Code is amended —

(*a*) by deleting the words "the accused has been committed to stand trial in the High Court under Division 2 of Part X for the offence, and" in subsection (3); and

(*b*) by deleting subsection (4) and substituting the following subsection:

"(4) Where a case is transmitted for trial in the High Court under Division 5 of Part X, the court may order the parties to the case to attend a criminal case disclosure conference for the purpose of settling the matters mentioned in section 212, and the criminal case disclosure procedures in Division 5 of Part X apply, with the necessary modifications, in relation to the case, if —

(*a*) either of the following applies:

(i) the accused is charged with an offence mentioned in section 211A(1);

(ii) the accused is charged with any other offence that is to be tried in the High Court, and all parties consent to have those procedures apply to that offence;

(*b*) a date is fixed for a plea of guilty to be taken from the accused; and

(*c*) on that date, the accused refuses to plead, does not plead or claims trial.".

Amendment of section 235

62. Section 235 of the Code is amended by inserting, immediately after subsection (6), the following subsection:

"(7) Despite subsection (1), where a statement made by a person is recorded in the form of an audiovisual recording, if a court considers that the production of the audiovisual recording is necessary or desirable for the purposes of any inquiry, trial or other proceeding under this Code by or before the court, the court may only order the prosecution to do either or both of the following:

(*a*) to produce the audiovisual recording in court;

(*b*) to arrange for the defence to view the audiovisual recording at a police station or at any other prescribed place.".

Amendment of section 240

63. Section 240 of the Code is amended —

(*a*) by inserting the word "or" at the end of subsection (1)(*a*);

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

"(*b*) forward the case to the Public Prosecutor, to enable the transmission procedures under Division 5 of Part X to be held."; and

(*c*) by deleting subsection (2) and substituting the following subsections:

"(2) In any trial before a District Court in which it appears at any stage of the proceedings that from any cause the case is one that the District Court is not competent to try or one that in the opinion of the

District Court ought to be tried by the High Court, or if before or during the trial an application is made by the Public Prosecutor, the District Court must —

(*a*) stay proceedings; and

(*b*) forward the case to the Public Prosecutor, to enable the transmission procedures under Division 5 of Part X to be held.

(2A) Where the case is forwarded to the Public Prosecutor under subsection (1)(*b*) or (2)(*b*), Division 5 of Part X applies in relation to the case.".

Amendment of heading to Division 5 of Part XIII

64. Division 5 of Part XIII of the Code is amended by inserting, immediately after the words "of unsound mind" in the Division heading, the words "or otherwise incapable of making defence".

Amendment of section 246

65. Section 246 of the Code is amended —

(*a*) by deleting the words "Mental Health (Care and Treatment) Act 2008 (Act 21 of 2008)" in the definition of "designated medical practitioner" and substituting the words "Mental Health (Care and Treatment) Act (Cap. 178A)"; and

(*b*) by deleting "2008" in the definitions of "principal officer" and "psychiatric institution".

Repeal and re-enactment of section 247

66. Section 247 of the Code is repealed and the following section substituted therefor:

"**Procedure if accused is suspected to be incapable of making defence**

247.—(1) When a court, which is holding or about to hold any inquiry, trial or other proceeding, has reason to suspect that the accused, by reason of unsoundness of mind or any physical or mental condition, is incapable of making the accused's defence,

the court must in the first instance investigate whether the accused is in fact so incapable.

(2) The investigation may be held in the absence of the accused if the court is satisfied that, owing to the accused's state of mind or physical or mental condition, it would be in the interests of the safety of the accused or of any other person, or in the interests of public decency, that the accused should be absent.

(3) For the purposes of the investigation, the court may —

(*a*) receive as evidence a certificate in writing signed by a medical practitioner stating that, in the opinion of the medical practitioner, the accused —

(i) is incapable of making the accused's defence by reason of unsoundness of mind or any physical or mental condition; or

(ii) is a proper person to be detained for observation and treatment in a psychiatric institution; or

(*b*) if the court sees fit, take oral evidence from a medical practitioner on the accused's state of mind or physical or mental condition.

(4) If the court, on its own motion or on the application of the Public Prosecutor, is not satisfied that the accused is capable of making the accused's defence, the court must —

(*a*) postpone the inquiry, trial or other proceeding; and

(*b*) order that the accused be remanded for observation in a psychiatric institution for a period not exceeding one month.

(5) During the period of the accused's remand (including any extension under subsection (8) of that period), a designated medical practitioner must —

(*a*) keep the accused under observation; and

(*b*) provide any necessary treatment.

(6) Before the expiry of the period of the accused's remand (including any extension under subsection (8) of that period) —

(*a*) the designated medical practitioner must certify in writing to the court the designated medical practitioner's opinion on the following matters:

(i) the accused's state of mind or physical or mental condition and, consequently, the accused's ability to make the accused's defence;

(ii) whether there is any risk that the accused, if released, may injure himself or any other person;

(iii) if there is any such risk —

(A) the extent of that risk;

(B) the conditions (if any) that may be imposed to minimise that risk; and

(C) the extent to which each such condition (if any) will minimise that risk; or

(*b*) if the designated medical practitioner is unable within that period to form a conclusion on one or more of the matters mentioned in paragraph (*a*)(i), (ii) and (iii), the designated medical practitioner must —

(i) certify in writing to the court the matters mentioned in paragraph (*a*)(i), (ii) and (iii) on which the designated medical practitioner is unable within that period to form a conclusion; and

(ii) request for the accused to be further remanded for observation in a psychiatric institution for a period not exceeding 2 months at any one time.

(7) For the purposes of subsection (6)(*a*)(iii)(B), the conditions that the designated medical practitioner may certify to be conditions that may be imposed to minimise the risk that the accused, if released, may injure himself or any other person, include the following conditions:

(*a*) the accused must reside at a place, such as a nursing home for which there is in force a licence issued under the Private Hospitals and Medical Clinics Act (Cap. 248), that is specified by the designated medical practitioner;

(*b*) the accused must present himself for any medical treatment that is specified by the designated medical practitioner;

(*c*) the accused must take any medication that is specified by the designated medical practitioner;

(*d*) a person must supervise the accused's compliance with any conditions that are imposed on the accused to minimise that risk.

(8) The court may, on a request under subsection (6)(*b*)(ii), extend the period of the accused's remand for observation in a psychiatric institution.".

Amendment of section 248

67. Section 248 of the Code is amended —

(*a*) by deleting the words "of sound mind and" in subsections (1), (2) and (3);

(*b*) by deleting the words "of unsound mind and" in subsections (2), (3) and (5) and substituting in each case the words ", by reason of unsoundness of mind or any physical or mental condition,"; and

(*c*) by deleting the words "and he may be detained in a psychiatric institution" in subsection (5) and substituting the words ", and the court may order that the accused be remanded in a psychiatric institution, a prison or any other suitable place of safe custody".

Repeal and re-enactment of sections 249 and 250

68. Sections 249 and 250 of the Code are repealed and the following sections substituted therefor:

"**Release, pending investigation or trial, of person incapable of making defence**

249.—(1) This section applies where the court finds, under section 248, that an accused is incapable of making the accused's defence by reason of unsoundness of mind or any physical or mental condition.

(2) If every offence that the accused is charged with is bailable, the court may order the release of the accused on the following conditions:

(*a*) the accused will be properly taken care of;

(*b*) the accused will be prevented from injuring himself or any other person;

(*c*) the accused will, when required, appear in court or before any officer that the court appoints for that purpose;

(*d*) any other conditions that the court may impose in any particular case.

(3) An order under subsection (2) may (but need not) specify —

(*a*) for the purposes of subsection (2)(*a*), a person by whom the accused will be properly taken care of; or

(*b*) for the purposes of subsection (2)(*b*), a person by whom the accused will be prevented from injuring himself or any other person.

(4) For the purposes of subsection (2)(*d*), the conditions that the court may impose in any particular case, when the court makes an order under subsection (2), include the following conditions:

(*a*) the accused must reside at a place, such as a nursing home for which there is in force a licence issued under the Private Hospitals and Medical Clinics Act (Cap. 248), that is specified in the order;

(*b*) the accused must present himself for any medical treatment that is specified in the order;

(*c*) the accused must take any medication that is specified in the order;

(*d*) the accused, or any other person or persons specified in the order, or 2 or more of them, must give sufficient security for compliance with the conditions of the order;

(*e*) a person specified in the order must supervise the accused's compliance with any conditions of the order that are imposed on the accused.

(5) The court may, on the application of any party —

(*a*) vary any condition mentioned in subsection (2)(*a*), (*b*) and (*c*); and

(*b*) vary, revoke or add to any condition mentioned in subsection (2)(*d*).

(6) The court may, after considering the matters reported under section 253(3) in relation to the accused, revoke an order under subsection (2) for the release of the accused.

(7) The court may also revoke an order under subsection (2) for the release of the accused if —

(*a*) the accused fails, without reasonable excuse, to comply with any condition of the order that is imposed on the accused; or

(*b*) any other person specified in the order fails, without reasonable excuse, to comply with any condition of the order that is imposed on that person.

(8) The court must report a case to the Minister if —

(*a*) any offence that the accused is charged with is not bailable;

(*b*) every offence that the accused is charged with is bailable, but the court does not order under subsection (2) the release of the accused; or

(*c*) the court revokes under subsection (6) or (7) an order under subsection (2) for the release of the accused.

(9) Where the court reports a case to the Minister under subsection (8), the following apply:

(*a*) the court must specify in the report the notional period of imprisonment that the accused would have been required to undergo, if the accused was convicted of every offence that the accused is charged with (called in this section the notional imprisonment period);

(*b*) if any offence that the accused is charged with is a capital or life imprisonment offence, the Minister must make an order that the accused be confined in a psychiatric institution, a prison or any other suitable place of safe custody specified in the Minister's order, for a period that may extend to the term of the accused's natural life;

(*c*) if no offence that the accused is charged with is a capital or life imprisonment offence, the Minister must make either of the following orders:

(i) an order that the accused be confined in a psychiatric institution, a prison or any other suitable place of safe custody specified in the Minister's order, for a period in relation to which the following conditions are satisfied:

(A) the period of confinement under the Minister's order must not exceed the notional imprisonment period;

(B) the total period of confinement under the Minister's order, and under every earlier order (if any) made by the Minister under paragraph (*b*) or sub-paragraph (i) in respect of any offence that the accused is charged with, does not exceed the notional imprisonment period;

(ii) an order that the accused be released on the following conditions:

(A) the accused will be properly taken care of;

(B) the accused will be prevented from injuring himself or any other person;

(C) the accused will, when required, appear in court or before any officer that the court appoints for that purpose;

(D) any other conditions that the Minister may impose in any particular case;

(*d*) the court must give effect to the Minister's order under paragraph (*b*) or (*c*)(i) or (ii).

(10) For the purposes of subsection (9), the notional imprisonment period is to be determined by the court in the following manner:

(*a*) the notional imprisonment period is the total period of imprisonment that the court making the determination would have required the accused to undergo, if the accused had been convicted of, and sentenced to imprisonment (including imprisonment in default of payment of a fine) for, every offence that the accused is charged with, having regard to —

(i) the possible combinations of consecutive sentences and concurrent sentences that might be imposed on the accused if the accused had been convicted of those offences; and

(ii) the need for the total period of imprisonment to be just and appropriate, taking into account the totality of the criminal conduct of the accused, after assuming that the accused committed every offence that the accused is charged with;

(*b*) the court may, in its discretion, hear any evidence that it is satisfied will assist it in making its determination.

(11) The determination of the notional imprisonment period by a court under subsection (10) —

(*a*) cannot be appealed against;

(*b*) may, if the court is a State Court, be revised under Division 3 of Part XX; and

(*c*) does not affect any sentence that a court may impose on the accused, when the accused is convicted of all or any of the offences that the accused is charged with.

(12) Pending an order of the Minister under subsection (9)(*b*) or (*c*), the court may order that the accused be remanded in a psychiatric institution, a prison or any other suitable place of safe custody.

(13) The Minister must not order under subsection (9)(*c*)(ii) that the accused be released unless —

(*a*) a designated medical practitioner has certified under section 247(6)(*a*) the designated medical practitioner's opinion that there is no risk that the accused, if released, may injure himself or any other person; or

(*b*) after taking into account the extent of any risk that the accused, if released, may injure himself or any other person, the Minister is satisfied that it is not against the public interest to order the release of the accused on the conditions mentioned in subsection (9)(*c*)(ii)(A) and (B).

(14) An order of the Minister under subsection (9)(*c*)(ii) may (but need not) specify —

(*a*) for the purposes of subsection (9)(*c*)(ii)(A), a person by whom the accused will be properly taken care of; or

(*b*) for the purposes of subsection (9)(*c*)(ii)(B), a person by whom the accused will be prevented from injuring himself or any other person.

(15) For the purposes of subsection (9)(*c*)(ii)(D), the conditions that the Minister may impose in any particular case, when the Minister makes an order under subsection (9)(*c*)(ii), include the following conditions:

(*a*) the accused must reside at a place, such as a nursing home for which there is in force a licence issued under the Private Hospitals and Medical Clinics Act, that is specified in the order;

(*b*) the accused must present himself for any medical treatment that is specified in the order;

(*c*) the accused must take any medication that is specified in the order;

(*d*) the accused, or any other person or persons specified in the order, or 2 or more of them, must give sufficient security for compliance with the conditions of the order;

(*e*) a person specified in the order must supervise the accused's compliance with any conditions of the order that are imposed on the accused;

(*f*) the accused must be delivered to the care and custody of a person specified in the order.

(16) The Minister may, on the application of any party —

(*a*) vary any condition mentioned in subsection (9)(*c*)(ii)(A), (B) and (C); and

(*b*) vary, revoke or add to any condition mentioned in subsection (9)(*c*)(ii)(D).

(17) The Minister may, after considering the matters reported under section 253(3) in relation to the accused —

(*a*) revoke an order under subsection (9)(*b*) or (*c*)(i) or (ii) in relation to the accused; and

(*b*) make another order under subsection (9)(*b*) or (*c*)(i) or (ii) in relation to the accused.

(18) The Minister may also revoke an order under subsection (9)(*c*)(ii) in relation to the accused, and make another order under subsection (9)(*c*)(i) or (ii) in relation to the accused, if —

(*a*) the accused fails, without reasonable excuse, to comply with any condition of the order that is imposed on the accused; or

(*b*) any other person, specified in that order, fails, without reasonable excuse, to comply with any condition of the order that is imposed on that person.

(19) The following apply upon the withdrawal of every charge against a person who is released pursuant to an order under subsection (2) or (9)(*c*)(ii), or is confined in a psychiatric institution, a prison, or any other suitable place of safe custody pursuant to an order under subsection (9)(*b*) or (*c*)(i):

(*a*) the order lapses;

(*b*) if, when the sole or last charge against the person is withdrawn before a court, the person is not before that court —

(i) in any case where the person is released pursuant to an order under subsection (2) or (9)(*c*)(ii) — the person must be issued, as soon as practicable, a summons to appear before a court; or

(ii) in any case where the person is confined in a psychiatric institution, a prison, or any other suitable place of safe custody pursuant to an order under subsection (9)(*b*) or (*c*)(i) —

(A) the person must be produced, as soon as practicable, before a court; and

(B) the period, beginning at the time the order lapses and ending at the time the person is produced before the court mentioned in sub-paragraph (A), must not exceed

24 hours, exclusive of the time necessary for the journey from the place of confinement to that court;

(*c*) the court before which the sole or last charge against the person is withdrawn or before which the person appears pursuant to a summons issued under paragraph (*b*)(i) or is produced under paragraph (*b*)(ii) (as the case may be) may —

(i) after due inquiry, send the person to a designated medical practitioner at a psychiatric institution for treatment; or

(ii) direct that the person be released;

(*d*) where paragraph (*c*)(i) applies, the person may be dealt with in accordance with the provisions of the Mental Health (Care and Treatment) Act (Cap. 178A).

(20) The following apply to an accused who is confined in a psychiatric institution, a prison, or any other suitable place of safe custody pursuant to an order of the Minister under subsection (9)(*b*) or (*c*)(i), when the period of confinement under the order expires:

(*a*) the accused must be produced, as soon as practicable, before a court;

(*b*) the period, beginning at the time the period of confinement under the order expires and ending at the time the accused is produced before the court, must not exceed 24 hours, exclusive of the time necessary for the journey from the place of confinement to the court;

(*c*) the court may —

(i) after due inquiry, send the accused to a designated medical practitioner at a psychiatric institution for treatment;

(ii) remand the accused in custody in accordance with section 238; or

(iii) release the accused on bail, on personal bond, or on bail and on personal bond, under section 92 or 93;

(*d*) where paragraph (*c*)(i) applies, the accused may be dealt with in accordance with the provisions of the Mental Health (Care and Treatment) Act.

(21) In this section, "capital or life imprisonment offence" means an offence that —

(*a*) is punishable with death or imprisonment for life; and

(*b*) is not —

(i) also punishable with an alternative punishment other than death or imprisonment for life; and

(ii) to be tried before a District Court or a Magistrate's Court.

Resumption of proceedings

250.—(1) When any inquiry, trial or other proceeding —

(*a*) is postponed under section 247(4) for the accused to be remanded for observation in a psychiatric institution; or

(*b*) is stayed under section 248(2),

the court may at any time begin the inquiry, trial or other proceeding afresh, and require the accused to appear or be brought before the court.

(2) If the court has ordered the release of the accused under section 249(2), the court may require the accused to appear or be brought before the court, and may again proceed under section 247.".

Amendment of section 252

69. Section 252 of the Code is amended —

(*a*) by deleting the words "order that person to be kept in safe custody in such place and manner as the court thinks fit and shall report the case for the orders of" in subsection (1) and substituting the words "order that the person concerned (called in this section the subject) be kept in safe custody in a psychiatric institution, a prison or any other suitable place of safe custody, and report the case to"; and

(*b*) by deleting subsection (2) and substituting the following subsections:

"(2) During the period that the subject is kept in safe custody under subsection (1), a designated medical practitioner must —

(*a*) keep the subject under observation; and

(*b*) provide any necessary treatment.

(3) Within one month after the date on which the period mentioned in subsection (2) begins, the designated medical practitioner must certify in writing to the Minister the designated medical practitioner's opinion on the following matters:

(*a*) whether there is any risk that the subject, if released, may injure himself or any other person;

(*b*) if there is any such risk —

(i) the extent of that risk;

(ii) the conditions (if any) that may be imposed to minimise that risk; and

(iii) the extent to which each such condition (if any) will minimise that risk.

(4) For the purposes of subsection (3)(*b*)(ii), the conditions that the designated medical practitioner

may certify to be conditions that may be imposed to minimise the risk that the subject, if released, may injure himself or any other person, include the following conditions:

(*a*) the subject must reside at a place, such as a nursing home for which there is in force a licence issued under the Private Hospitals and Medical Clinics Act (Cap. 248), that is specified by the designated medical practitioner;

(*b*) the subject must present himself for any medical treatment that is specified by the designated medical practitioner;

(*c*) the subject must take any medication that is specified by the designated medical practitioner;

(*d*) a person must supervise the subject's compliance with any conditions that are imposed on the subject to minimise that risk.

(5) The Minister must consider the certification under subsection (3) before deciding which order to make under subsection (6).

(6) The Minister may make any of the following orders:

(*a*) an order that the subject be confined in a psychiatric institution, a prison or any other suitable place of safe custody specified in the Minister's order, for a period not exceeding 12 months;

(*b*) an order that the subject be released on the following conditions:

(i) the subject will be properly taken care of;

(ii) the subject will be prevented from injuring himself or any other person;

(iii) the subject will, when required, appear in court or before any officer that the court appoints for that purpose;

(iv) any other conditions that the Minister may impose in any particular case;

(*c*) an order that the subject be released unconditionally.

(7) Where the subject is confined under an order made by the Minister under subsection (6)(*a*) or by the court under paragraph (*b*), the total period of confinement of the subject under every such order does not exceed the notional imprisonment period under subsection (8), and the Minister cannot, or does not wish to, order the discharge of the subject under section 256 —

(*a*) the Minister must, before the expiry of the period of confinement of the subject, apply to the court for an order for the further confinement of the subject —

(i) for care and treatment; or

(ii) to minimise the risk that the subject may injure himself or any other person; and

(*b*) the court may, on an application under paragraph (*a*), with or without further inquiry at the court's discretion, order the further confinement of the subject for a period in relation to which the following conditions are satisfied:

(i) the period of the further confinement of the subject must not exceed 12 months;

(ii) the total period of confinement of the subject under every order made by the Minister under subsection (6)(*a*) or by the court under this paragraph does not exceed the notional imprisonment period.

(8) For the purposes of subsection (7), the notional imprisonment period —

(*a*) is the maximum term of imprisonment that may be awarded for the offence mentioned in subsection (1) (or, if there are 2 or more such offences, the most serious of those offences); or

(*b*) where the offence mentioned in subsection (1) (or, if there are 2 or more such offences, the most serious of those offences) is punishable with death, or with imprisonment for life — is the term of the subject's natural life.

(9) The following apply when the period of confinement of the subject under the sole or last order made by the Minister under subsection (6)(*a*) or by the court under subsection (7)(*b*) expires (for example, after the court decides not to make an order under subsection (7)(*b*) for the further confinement of the subject):

(*a*) the subject must be produced, as soon as practicable, before a court;

(*b*) the period, beginning at the time the period of confinement under the order expires and ending at the time the subject is produced before the court, must not exceed 24 hours,

exclusive of the time necessary for the journey from the place of confinement to the court;

(*c*) the court may —

(i) after due inquiry, send the subject to a designated medical practitioner at a psychiatric institution for treatment; or

(ii) direct that the subject be released;

(*d*) where paragraph (*c*)(i) applies, the subject may be dealt with in accordance with the provisions of the Mental Health (Care and Treatment) Act (Cap. 178A).

(10) The Minister —

(*a*) must not order the release of the subject under subsection (6)(*b*) unless —

(i) a designated medical practitioner has certified under subsection (3) the designated medical practitioner's opinion that there is no risk that the subject, if released, may injure himself or any other person; or

(ii) after taking into account the extent of any risk that the subject, if released, may injure himself or any other person, the Minister is satisfied that it is not against the public interest to order the release of the subject on the conditions mentioned in subsection (6)(*b*)(i) to (iv); and

(*b*) must not order the release of the subject under subsection (6)(*c*) unless a designated medical practitioner has certified under subsection (3) the designated medical

practitioner's opinion that there is no risk that the subject, if released, may injure himself or any other person.

(11) An order of the Minister under subsection (6)(*b*) may (but need not) specify —

(*a*) for the purposes of subsection (6)(*b*)(i), a person by whom the subject will be properly taken care of; or

(*b*) for the purposes of subsection (6)(*b*)(ii), a person by whom the subject will be prevented from injuring himself or any other person.

(12) For the purposes of subsection (6)(*b*)(iv), the conditions that the Minister may impose in any particular case, when the Minister makes an order under subsection (6)(*b*), include the following conditions:

(*a*) the subject must reside at a place, such as a nursing home for which there is in force a licence issued under the Private Hospitals and Medical Clinics Act, that is specified in the order;

(*b*) the subject must present himself for any medical treatment that is specified in the order;

(*c*) the subject must take any medication that is specified in the order;

(*d*) the subject, or any other person or persons specified in the order, or 2 or more of them, must give sufficient security for compliance with the conditions of the order;

(*e*) a person specified in the order must supervise the subject's compliance with

any conditions of the order that are imposed on the subject;

(*f*) the subject must be delivered to the care and custody of a person specified in the order.

(13) The Minister may, on the application of any party —

(*a*) vary any condition mentioned in subsection (6)(*b*)(i), (ii) and (iii); and

(*b*) vary, revoke or add to any condition mentioned in subsection (6)(*b*)(iv).

(14) The Minister may, after considering the matters reported under section 253(3) in relation to the subject —

(*a*) revoke an order under subsection (6)(*a*) or (*b*) in relation to the subject; and

(*b*) make another order under subsection (6)(*a*) or (*b*) in relation to the subject.

(15) The Minister may also revoke an order under subsection (6)(*b*), and make another order under subsection (6)(*a*) or (*b*) in relation to the subject, if —

(*a*) the subject fails, without reasonable excuse, to comply with any condition of the order that is imposed on the subject; or

(*b*) any other person, specified in the order, fails, without reasonable excuse, to comply with any condition of the order that is imposed on that person.".

Repeal and re-enactment of section 253

70. Section 253 of the Code is repealed and the following section substituted therefor:

"**Visiting of person confined under section 249 or 252, or released under section 249, 252 or 255 on any condition**

253.—(1) This section applies to a person who is confined pursuant to an order under section 249(9)(*b*) or (*c*)(i) or 252(6)(*a*) or (7)(*b*) in a psychiatric institution, a prison or any other suitable place of safe custody, or who is released pursuant to an order under section 249(2) or (9)(*c*)(ii), 252(6)(*b*) or 255(1)(*b*) or (8)(*b*) on any condition.

(2) At least once every 6 months, 2 of the visitors of a psychiatric institution must visit the person to ascertain the following matters:

(*a*) the person's state of mind or physical or mental condition;

(*b*) whether there is any risk that the person may injure himself or any other person, if the person is or continues to be released; and

(*c*) if there is any such risk —

(i) the extent of that risk;

(ii) the conditions (if any) that may be imposed to minimise that risk; and

(iii) the extent to which each such condition (if any) will minimise that risk.

(3) The visitors mentioned in subsection (2) must, after ascertaining the matters mentioned in that subsection —

(*a*) in any case where the person was released pursuant to an order of the court under section 249(2) — report those matters to the court; or

(*b*) in any other case — report those matters to the Minister.".

Amendment of section 254

71. Section 254 of the Code is amended —

(*a*) by deleting the words "is confined under section 249 and" in subsection (1) and substituting the words ", who is confined pursuant to an order under section 249(9)(*b*) or (*c*)(i) or released pursuant to an order under section 249(2) or (9)(*c*)(ii) or 255(1)(*b*),";

(*b*) by deleting the words "Mental Health (Care and Treatment) Act 2008 (Act 21 of 2008)" in subsection (2) and substituting the words "Mental Health (Care and Treatment) Act (Cap. 178A)";

(*c*) by deleting subsection (3) and substituting the following subsection:

"(3) An order made by the court under section 249(2) or by the Minister under section 249(9)(*b*) or (*c*)(i) or (ii) or 255(1)(*b*) —

(*a*) remains in force while the trial is proceeded with against a person mentioned in subsection (1); and

(*b*) lapses only after —

(i) the person is convicted of an offence, or is acquitted, at the end of the trial; or

(ii) the charge against the person is withdrawn at any time after the commencement of the trial."; and

(*d*) by deleting the words "of unsound mind" in the section heading and substituting the words "confined under section 249 or released under section 249 or 255(1)".

Repeal and re-enactment of sections 255 and 256

72. Sections 255 and 256 of the Code are repealed and the following sections substituted therefor:

"**Delivery of person confined under section 249 or 252 to care of relative or friend**

255.—(1) If a relative or friend of an accused confined pursuant to an order under section 249(9)(*b*) or (*c*)(i) wishes the accused to be delivered to the care and custody of the relative or friend —

(*a*) the relative or friend may apply for this; and

(*b*) the Minister may make an order that the accused be released on the following conditions:

(i) the accused will be properly taken care of;

(ii) the accused will be prevented from injuring himself or any other person;

(iii) the accused will, when required, appear in court or before any officer that the court appoints for that purpose;

(iv) any other conditions that the Minister may impose in any particular case.

(2) The Minister must not order under subsection (1)(*b*) that the accused be released unless —

(*a*) a designated medical practitioner has certified under section 247(6)(*a*) the designated medical practitioner's opinion that there is no risk that the accused, if released, may injure himself or any other person; or

(*b*) after taking into account the extent of any risk that the accused, if released, may injure himself or any other person, the Minister is satisfied that it is not against the public interest to order the release of the accused on the conditions mentioned in subsection (1)(*b*)(i) to (iv).

(3) An order of the Minister under subsection (1)(*b*) may (but need not) specify —

(*a*) for the purposes of subsection (1)(*b*)(i), a person by whom the accused will be properly taken care of; or

(*b*) for the purposes of subsection (1)(*b*)(ii), a person by whom the accused will be prevented from injuring himself or any other person.

(4) For the purposes of subsection (1)(*b*)(iv), the conditions that the Minister may impose in any particular case, when the Minister makes an order under subsection (1)(*b*), include the following conditions:

(*a*) the accused must reside at a place, such as a nursing home for which there is in force a licence issued under the Private Hospitals and Medical Clinics Act (Cap. 248), that is specified in the order;

(*b*) the accused must present himself for any medical treatment that is specified in the order;

(*c*) the accused must take any medication that is specified in the order;

(*d*) the accused, or the relative or friend, or both of them, must give sufficient security for compliance with the conditions of the order;

(*e*) a person specified in the order must supervise the accused's compliance with any conditions of the order that are imposed on the accused.

(5) The Minister may, on the application of any party —

(*a*) vary any condition mentioned in subsection (1)(*b*)(i), (ii) and (iii); and

(*b*) vary, revoke or add to any condition mentioned in subsection (1)(*b*)(iv).

(6) The Minister may, after considering the matters reported under section 253(3) in relation to the accused —

(*a*) revoke an order under subsection (1)(*b*) in relation to the accused; and

(*b*) make another order under subsection (1)(*b*), or an order under section 249(9)(*b*) or (*c*)(i) or (ii), in relation to the accused.

(7) The Minister may also revoke an order under subsection (1)(*b*) in relation to the accused, and make another order under subsection (1)(*b*), or an order under section 249(9)(*b*) or (*c*)(i) or (ii), in relation to the accused, if —

(*a*) the accused fails, without reasonable excuse, to comply with any condition of the order that is imposed on the accused; or

(*b*) any other person, specified in the order, fails, without reasonable excuse, to comply with any condition of the order that is imposed on that person.

(8) If a relative or friend of a person confined pursuant to an order under section 252(6)(*a*) or (7)(*b*) (called in this section the subject) wishes the subject to be delivered to the care and custody of the relative or friend —

(*a*) the relative or friend may apply for this; and

(*b*) the Minister may make an order that the subject be released on the following conditions:

(i) the subject will be properly taken care of;

(ii) the subject will be prevented from injuring himself or any other person;

(iii) the subject will, when required, be produced for inspection by the principal officer of a psychiatric institution, at a time directed by the Minister;

(iv) any other conditions that the Minister may impose in any particular case.

(9) The Minister must not order under subsection (8)(*b*) that the subject be released unless —

(*a*) a designated medical practitioner has certified under section 252(3) the designated medical practitioner's

opinion that there is no risk that the subject, if released, may injure himself or any other person; or

(*b*) after taking into account the extent of any risk that the subject, if released, may injure himself or any other person, the Minister is satisfied that it is not against the public interest to order the release of the subject on the conditions mentioned in subsection (8)(*b*)(i) to (iv).

(10) An order of the Minister under subsection (8)(*b*) may (but need not) specify —

(*a*) for the purposes of subsection (8)(*b*)(i), a person by whom the subject will be properly taken care of; or

(*b*) for the purposes of subsection (8)(*b*)(ii), a person by whom the subject will be prevented from injuring himself or any other person.

(11) For the purposes of subsection (8)(*b*)(iv), the conditions that the Minister may impose in any particular case, when the Minister makes an order under subsection (8)(*b*), include the following conditions:

(*a*) the subject must reside at a place, such as a nursing home for which there is in force a licence issued under the Private Hospitals and Medical Clinics Act, that is specified in the order;

(*b*) the subject must present himself for any medical treatment that is specified in the order;

(*c*) the subject must take any medication that is specified in the order;

(*d*) the subject, or the relative or friend, or both of them, must give sufficient security for compliance with the conditions of the order;

(*e*) a person specified in the order must supervise the subject's compliance with any conditions of the order that are imposed on the subject.

(12) The Minister may, on the application of any party —

(*a*) vary any condition mentioned in subsection (8)(*b*)(i), (ii) and (iii); and

(*b*) vary, revoke or add to any condition mentioned in subsection (8)(*b*)(iv).

(13) The Minister may, after considering the matters reported under section 253(3) in relation to the subject —

(*a*) revoke an order under subsection (8)(*b*) in relation to the subject; and

(*b*) make another order under subsection (8)(*b*), or an order under section 252(6)(*a*) or (*b*), in relation to the subject.

(14) The Minister may also revoke an order under subsection (8)(*b*) in relation to the subject, and make another order under subsection (8)(*b*), or an order under section 252(6)(*a*) or (*b*), in relation to the subject, if —

(*a*) the subject fails, without reasonable excuse, to comply with any condition of the order that is imposed on the subject; or

(*b*) any other person, specified in the order, fails, without reasonable excuse, to comply with any condition of the order that is imposed on that person.

Procedure when person confined under section 249 or 252, or released under section 249, 252 or 255 on any condition, certified fit for discharge or release

256.—(1) If the principal officer and 2 visitors of a psychiatric institution certify that, in their judgment, a person who is confined pursuant to an order under section 249(9)(*b*) or (*c*)(i) or 252(6)(*a*) or (7)(*b*) in the psychiatric institution, a prison or any other suitable place of safe custody, or who is released pursuant to an order under section 249(2) or (9)(*c*)(ii), 252(6)(*b*) or 255(1)(*b*) or (8)(*b*) on any condition, may be discharged without danger of injuring himself or any other person, the Minister may —

(*a*) order the person to be discharged; or

(*b*) make another order under section 249(9)(*b*) or (*c*)(i) or 252(6)(*a*) (as the case may be).

(2) If the principal officer and 2 visitors of a psychiatric institution certify that, in their judgment, a person who is confined pursuant to an order under section 249(9)(*b*) or (*c*)(i) or 252(6)(*a*) or (7)(*b*) in the psychiatric institution, a prison or any other suitable place of safe custody may be released on any condition (being a condition that may be imposed to minimise any risk that the person, if released, may injure himself or any other person), the Minister may —

(*a*) make an order under section 249(9)(*c*)(ii) or 252(6)(*b*) for the release of the person; or

(*b*) make another order under section 249(9)(*b*) or (*c*)(i) or 252(6)(*a*) (as the case may be).

(3) If, pursuant to subsection (1)(*b*) or (2)(*b*) or paragraph (*b*)(ii), the Minister makes an order under section 249(9)(*b*) or (*c*)(i) or 252(6)(*a*) for the person to be confined in a psychiatric institution, a prison or any other suitable place of safe custody —

(*a*) the Minister may appoint a commission consisting of a Magistrate and 2 medical officers —

(i) to make formal inquiry into the person's state of mind, taking such evidence as is necessary; and

(ii) to report to the Minister; and

(*b*) the Minister may, after receiving the report, as the Minister thinks fit —

(i) order the person to be discharged; or

(ii) make another order under section 249(9)(*b*) or (*c*)(i) or 252(6)(*a*) (as the case may be).".

New section 256A

73. The Code is amended by inserting, immediately after section 256, the following section:

"**Failure by person released to comply with condition of release order, etc.**

256A.—(1) This section applies to any person who has been released pursuant to an order under section 249(2) or (9)(*c*)(ii), 252(6)(*b*) or 255(1)(*b*) or (8)(*b*).

(2) Any police officer may, without a warrant, arrest a person mentioned in subsection (1) who is reasonably suspected —

(*a*) to have failed to comply with any condition, of the order pursuant to which the person is released, that is imposed on the person; and

(*b*) to be dangerous to himself or any other person by reason of mental disorder.

(3) The Minister, or a visitor of a psychiatric institution, may apply to a court for a warrant of arrest to be issued against a person mentioned in subsection (1) who is reasonably suspected to have failed to comply with any condition, of the order pursuant to which the person is released, that is imposed on the person.

(4) Sections 67 and 68 do not apply to a person arrested under subsection (2).

(5) Where a person is arrested under subsection (2) or pursuant to a warrant of arrest issued on an application under subsection (3), the person must, as soon as practicable, be produced before a Magistrate's Court.

(6) A police officer must not detain in custody a person who has been arrested under subsection (2) for a longer period than under all the circumstances of the case is reasonable.

(7) The period mentioned in subsection (6) must not exceed 24 hours, exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.

(8) Where a person who has been released pursuant to an order under section 249(2) is arrested under subsection (2) or pursuant to a warrant of arrest issued on an application under subsection (3) —

(*a*) if the Magistrate's Court finds that the person has failed, without reasonable excuse, to comply with any condition of the order that is imposed on the person, the Magistrate's Court must act in accordance with section 249(7) and (8); and

(*b*) unless the Magistrate's Court makes a finding mentioned in paragraph (*a*) — the Magistrate's Court must release the person.

(9) Where a person who has been released pursuant to an order under section 249(9)(*c*)(ii), 252(6)(*b*) or 255(1)(*b*) or (8)(*b*) is arrested under subsection (2) or pursuant to a warrant of arrest issued on an application under subsection (3), the Magistrate's Court must —

(*a*) order that the person be remanded in a psychiatric institution, a prison or any other suitable place of safe custody pending the making of another order by the Minister under section 249(9)(*b*) or (*c*)(i) or (ii), 252(6)(*a*) or (*b*) or 255(1)(*b*) or (8)(*b*) (as the case may be); and

(*b*) report the case to the Minister.".

Amendment of section 258

74. Section 258 of the Code is amended —

(*a*) by deleting the word "or" at the end of paragraph (*d*) of *Explanation 2* after subsection (3);

(*b*) by deleting the full-stop at the end of paragraph (*e*) of *Explanation 2* after subsection (3) and substituting the word "; or", and by inserting immediately thereafter the following paragraph:

"(*f*) where an accused's statement under section 22 or 23 is in writing, when section 22(5) or 23(3B) (as the case

may be) requires the statement to be recorded in the form of an audiovisual recording.";

(*c*) by inserting, immediately after subsection (4), the following subsection:

"(4A) For the purposes of subsection (3), the making of a statement by an accused is not to be regarded as caused by any inducement, threat or promise merely because a person in authority had earlier informed the accused that the accused was required or legally bound to give information under section 27 of the Prevention of Corruption Act (Cap. 241), if that person believed in good faith, when so informing the accused, that —

(*a*) the accused was concerned in an offence under that Act; or

(*b*) a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, that the accused was concerned in an offence under that Act.";

(*d*) by deleting subsection (5) and the *Explanation* after that subsection and substituting the following subsections:

"(5) When 2 or more persons are tried jointly in any of the following circumstances, and a confession made by one such person affecting that person and any other such person is proved, the court may take into consideration the confession as against the other person as well as against the person who made the confession:

(*a*) all of those persons are tried jointly for the same offence;

(*b*) the proof of the facts alleged in the charge for the offence for which one of those persons (*A*) is tried (excluding any fact relating to any intent or state of mind on the

part of *A* necessary to constitute the offence for which *A* is tried) would, for each of the rest of those persons, result in the proof of the facts alleged in the charge for the offence for which that person is tried (excluding any fact relating to any intent or state of mind on the part of that person necessary to constitute the offence for which that person is tried);

(*c*) at least one of those persons is tried for an offence under section 411, 412, 413 or 414 of the Penal Code (Cap. 224) in respect of any property, and the rest of those persons are tried for one or more of the offences of theft, extortion, robbery, criminal misappropriation, criminal breach of trust or cheating under Chapter XVII of the Penal Code in respect of the same property.

(5A) Despite subsection (5), the court may refuse to take into consideration a confession as against a person (other than the maker of the confession), if the prejudicial effect of the confession on that person outweighs the probative value of the confession.

(5B) In subsection (5), "offence" includes an abetment of, a conspiracy to commit, or an attempt to commit, the offence."; and

(*e*) by inserting, immediately after paragraph (*b*) of the *Illustrations*, the following paragraph:

"(*c*) *A* is charged with an offence of corruptly giving a gratification to *B* under section 5(*b*) of the Prevention of Corruption Act (Cap. 241). *B* is charged with an offence of corruptly receiving the same gratification from *A* under section 5(*a*) of the Prevention of Corruption Act. *A* and *B* are jointly tried for those offences. If a confession made by *A* affecting both *A* and *B* is proved, and the same facts are alleged in the charges against *A* and *B*, the court may take into

consideration the confession as against *B*, even though *A* and *B* are charged with offences that have different elements.".

New sections 258A and 258B

75. The Code is amended by inserting, immediately after section 258, the following sections:

"**Admissibility of Case for the Defence**

258A.—(1) Where any person is charged with an offence, the Case for the Defence filed under section 163(1) or 215(1) by or on behalf of that person —

(*a*) is admissible in evidence at that person's trial (including during the presentation of the prosecutor's statement under section 230(1)(*d*)); and

(*b*) if that person tenders himself as a witness, may be used in cross-examination and for the purpose of impeaching that person's credit.

(2) When 2 or more persons are tried jointly in any of the following circumstances, and the Case for the Defence filed under section 163(1) or 215(1) by or on behalf of any such person affects that person and any other such person, the court may take into consideration that Case for the Defence as against the other person as well as against the person by or on behalf of whom that Case for the Defence was filed:

(*a*) all of those persons are tried jointly for the same offence;

(*b*) the proof of the facts alleged in the charge for the offence for which one of those persons (*A*) is tried (excluding any fact relating to any intent or state of mind on the part of *A* necessary to constitute the offence for which *A* is tried) would, for each of the rest of those persons, result in the proof of the facts alleged in the charge for the offence for which that person is tried (excluding any fact relating to any intent or state of mind on the part of that person

necessary to constitute the offence for which that person is tried);

(*c*) at least one of those persons is tried for an offence under section 411, 412, 413 or 414 of the Penal Code (Cap. 224) in respect of any property, and the rest of those persons are tried for one or more of the offences of theft, extortion, robbery, criminal misappropriation, criminal breach of trust or cheating under Chapter XVII of the Penal Code in respect of the same property.

(3) Despite subsection (2), the court may refuse to take into consideration a Case for the Defence as against a person (other than the person by or on behalf of whom that Case for the Defence was filed), if the prejudicial effect of that Case for the Defence on that person outweighs the probative value of that Case for the Defence.

(4) In subsection (2), "offence" includes an abetment of, a conspiracy to commit, or an attempt to commit, the offence.

Reference to certain documents in Case for the Prosecution

258B. Where any person is charged with an offence, any document mentioned in section 162(*a*), (*b*), (*c*) or (*d*) or 214(*a*), (*b*) or (*c*), which is contained in the Case for the Prosecution filed under section 161(2) or 213(1) for the purposes of the trial of that person, may be referred to during that trial as if that document is part of the prosecutor's statement under section 230(1)(*d*).".

Amendment of section 264

76. Section 264 of the Code is amended —

(*a*) by deleting the words "(other than a committal hearing held under Division 2 of Part X)" in subsection (1); and

(*b*) by deleting subsection (4) and substituting the following subsections:

"(4) Unless the court directs otherwise, so much of any statement as is admitted in evidence under this section must be read aloud at the hearing.

(4A) Where the court directs under subsection (4) that any part of a statement admitted in evidence under this section need not be read aloud at the hearing, the court may also direct that an account be given orally of the part of that statement that is not read aloud.".

New section 264A

77. The Code is amended by inserting, immediately after section 264, the following section:

"**Statement recorded in form of audiovisual recording**

264A.—(1) Despite anything in this Code or in any other written law, a statement made by a person that is recorded in the form of an audiovisual recording (called in this section a recorded statement) is admissible as evidence in a criminal proceeding, to the same extent and to the same effect as oral evidence given by the person, if —

(*a*) the criminal proceeding relates to an offence alleged to have been committed against or in relation to the person;

(*b*) any of the following conditions is satisfied:

(i) the offence alleged to have been committed against or in relation to the person is —

(A) a child abuse offence;

(B) an offence under section 24(2) of the Children and Young Persons Act (Cap. 38), an abetment of, a conspiracy to commit, or an attempt to commit, that offence;

(C) a sexual offence;

(D) an offence under section 169(3) of the Women's Charter (Cap. 353), an abetment of, a conspiracy to commit, or an attempt to commit, that offence; or

(E) an offence under section 3(1) or (2) or 6(1) of the Prevention of Human Trafficking Act 2014 (Act 45 of 2014), an abetment of, a conspiracy to commit, or an attempt to commit, that offence;

(ii) both of the following apply:

(A) the offence alleged to have been committed against or in relation to the person is an offence under section 323, 324, 325, 326, 327, 328, 329, 330, 331, 334, 335, 336, 337 or 338 of the Penal Code (Cap. 224), an abetment of, a conspiracy to commit, or an attempt to commit, that offence;

(B) any of the following applies:

(BA) the person is below 16 years of age;

(BB) the person is suffering from a mental disability;

(BC) the person is a domestic maid, and the offence is alleged to have been committed by the employer of the person or by a member of the employer's household;

(iii) all of the following apply:

(A) the offence alleged to have been committed against or in relation to the person is any other offence;

(B) any of the following applies:

(BA) the person is below 16 years of age;

(BB) the person is suffering from a mental disability;

(BC) the person is a domestic maid, and the offence is alleged to have been committed by the employer of the person or by a member of the employer's household;

(C) the court grants leave for the recorded statement to be admitted in evidence;

(*c*) in a case where the person is below 21 years of age, the recorded statement states the person's age; and

(*d*) in a case where the recorded statement is to be used in lieu of oral evidence given by the person as evidence in chief in the criminal proceeding, the person has confirmed in the recorded statement that what the person states in the recorded statement is true.

(2) Where a recorded statement is admissible as evidence in a criminal proceeding under subsection (1), a transcript of the audiovisual recording of the recorded statement is also admissible as evidence in the criminal proceeding, to the same extent and to the same effect as the recorded statement.

(3) Where in any criminal proceeding a recorded statement of a person, or a transcript of the audiovisual recording of a recorded statement of a person, is admitted in evidence under this section, the court may, of its own motion or on the application of any party to the proceeding, require the person to attend before the court and give evidence.

(4) Unless the court directs otherwise —

(*a*) the audiovisual recording of so much of a recorded statement as is admitted in evidence under this section must be displayed at the hearing; and

(*b*) so much of a transcript as is admitted in evidence under this section must be read aloud at the hearing.

(5) Where the court directs under subsection (4) that any part of the audiovisual recording of a recorded statement admitted in evidence under this section need not be displayed at the hearing, the court may also direct that an account be given orally of the part of the audiovisual recording that is not displayed.

(6) Where the court directs under subsection (4) that any part of a transcript admitted in evidence under this section need not be read aloud at the hearing, the court may also direct that an account be given orally of the part of the transcript that is not read aloud.

(7) Where a document or an object is referred to as an exhibit and identified in a recorded statement of a person, or in a transcript of the audiovisual recording of a recorded statement of a person, and the recorded statement or transcript (as the case may be) is admitted in evidence under this section, the document or object must be treated as if the document or object had been produced as an exhibit and identified in court by the person.

(8) Where a document is referred to as an exhibit in a recorded statement, or in a transcript of the audiovisual recording of a recorded statement, and the recorded statement or transcript (as the case may be) is admitted in evidence under this section, the prosecution must —

(*a*) serve a copy of that document on the defence; or

(*b*) allow the defence to inspect that document or a copy of that document.

(9) In this section, "domestic maid" and "member of the employer's household" have the same meanings as in section 73(4) of the Penal Code.".

New sections 269 and 270

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

"**Opinion of expert in criminal proceedings**

269.—(1) In any criminal proceedings, an opinion of an expert on a point of scientific, technical or other specialised knowledge is admissible as evidence to the extent that it is so admissible by this Code, the Evidence Act (Cap. 97), the Criminal Procedure Rules or any other written law.

(2) The Criminal Procedure Rules may prescribe —

(*a*) the duties of an expert;

(*b*) how an opinion of an expert on a point of scientific, technical or other specialised knowledge is to be adduced in evidence; and

(*c*) the requirements for any such opinion to be used in evidence.

Opinion of psychiatrist in criminal proceedings

270.—(1) In any criminal proceedings, an opinion of a psychiatrist on any matter concerning psychiatry (when given as the opinion of an expert) is not admissible as evidence, unless the psychiatrist is a member of the panel of psychiatrists (called in this section the Panel) established for the purposes of this section.

(2) A Selection Committee may appoint, or renew the appointment of, a psychiatrist as a member of the Panel, for a period not exceeding 2 years at a time, if the psychiatrist applies in such manner, and satisfies such requirements, as may be prescribed in the Criminal Procedure Rules.

(3) In deciding whether to appoint, or to renew the appointment of, a psychiatrist as a member of the Panel, the Selection Committee must consider such matters as may be prescribed in the Criminal Procedure Rules.

(4) The Selection Committee may revoke the appointment of a psychiatrist as a member of the Panel in such circumstances as may be prescribed by the Criminal Procedure Rules.

(5) Any psychiatrist who is aggrieved by any decision of the Selection Committee mentioned in the following paragraphs may appeal to the Chief Justice within such period, and in such manner, as may be prescribed by the Criminal Procedure Rules:

(*a*) a decision not to appoint the psychiatrist as a member of the Panel;

(*b*) a decision not to renew the appointment of the psychiatrist as a member of the Panel;

(*c*) a decision to revoke the appointment of the psychiatrist as a member of the Panel.

(6) The decision of the Chief Justice on an appeal under subsection (5) is final.

(7) Where the appointment of a psychiatrist as a member of the Panel is revoked under subsection (4), the psychiatrist cannot be re-appointed as a member of the Panel until such period as may be specified in the Criminal Procedure Rules has passed.

(8) The Selection Committee consists of the following persons:

(*a*) a Judge of the Supreme Court, who is nominated by the Chief Justice for such period as the Chief Justice may determine, and who is the chairperson of the Committee;

(*b*) a District Judge, who is nominated by the Chief Justice for such period as the Chief Justice may determine;

(*c*) a public officer, who is nominated by the Minister charged with the responsibility for health.

(9) All members of the Selection Committee must be present to constitute a quorum for a meeting of the Committee.

(10) Each member of the Selection Committee has one vote.

(11) A decision is adopted by the Selection Committee at a meeting if a majority of the votes cast on it are in favour of it.

(12) A member present at a meeting of the Selection Committee is presumed to have agreed to, and to have cast a vote in favour of, a decision of the Committee, unless the member expressly votes against the decision at the meeting.

(13) The members may, in place of the procedure described in subsections (11) and (12), adopt a decision by assenting to the decision in writing, if —

(*a*) all of the members are given (whether by post, personal delivery or electronic communication) the terms of the decision to be made; and

(*b*) a majority of those members who are entitled to vote on the matter sign or approve a document containing the terms of the decision to be made and a statement that they are in favour of those terms.

(14) Where subsection (13) applies, the decision is deemed to have been adopted at a meeting of the Selection Committee on the date on which the document containing the terms of the decision to be made is signed or approved by the last member required to form the majority of members in favour of the decision.".

Amendment of heading to Division 4 of Part XIV

79. Division 4 of Part XIV of the Code is amended by inserting, immediately after the word "recording" in the Division heading, the words "or giving".

Amendment of section 281

80. Section 281 of the Code is amended —

(*a*) by deleting paragraphs (*b*) and (*c*) of subsection (2) and substituting the following paragraphs:

"(*b*) a child abuse offence;

(*c*) an offence under section 24(2) of the Children and Young Persons Act (Cap. 38);";

(*b*) by deleting paragraph (*d*) of subsection (2) and substituting the following paragraphs:

"(*d*) a sexual offence;

(*da*) an offence under section 169(3) of the Women's Charter (Cap. 353); and";

(*c*) by inserting, immediately after subsection (2), the following subsection:

"(2A) Where a psychiatrist or psychologist has prepared a report on how a witness may be affected if the witness is required to give evidence in the presence of the accused, and that report is placed before the court, the court must consider that report before deciding whether to allow under subsection (1) the evidence of the witness to be given through a live video or live television link."; and

(*d*) by deleting subsection (3) and substituting the following subsection:

"(3) Despite any provision of this Code or of any other written law, unless the court directs otherwise, while an accused is in remand in Singapore, the accused is to appear before the court through a live video or live television link in any of the following proceedings:

(*a*) proceedings for an application for bail or release on personal bond at any time after the accused is first produced before a Magistrate pursuant to Article 9(4) of the Constitution;

(*b*) proceedings for an extension of the remand of the accused under section 238;

(*c*) proceedings for a State Court to record a plea of guilty from the accused, and to convict the accused;

(*d*) proceedings in a State Court for the sentencing of the accused, after the conviction of the accused in earlier proceedings;

(*e*) any other proceedings that the Minister may prescribe by regulations under this section, after consulting the Chief Justice.".

New sections 281A and 281B

81. The Code is amended by inserting, immediately after section 281, the following sections:

"**Measures to prevent witness from seeing accused**

281A.—(1) Despite any provision of this Code or any other written law, but subject to this section, the court may make an order allowing a witness to give evidence while prevented by a shielding measure from seeing the accused, if —

(*a*) the witness is below 16 years of age;

(*b*) the witness is the alleged victim of a sexual offence or child abuse offence that the accused is charged with; or

(*c*) the court is satisfied that —

(i) either or both of the following apply:

(A) the witness is afraid of the accused, or of giving evidence in the presence of the accused;

(B) the witness will be distressed if the witness is required to give evidence in the presence of the accused; and

(ii) the reliability of the witness' evidence will be diminished by such fear or distress (as the case may be).

(2) The shielding measure must not prevent the witness from being able to see, and to be seen by, any of the following:

(*a*) the court;

(*b*) the prosecutor;

(*c*) any advocate representing the accused;

(*d*) any interpreter or other person appointed to assist the witness.

(3) An order under subsection (1) does not cease to apply merely because the witness in respect of whom the order was made reaches 16 years of age before the proceedings in which the order was made are finally concluded.

(4) If a witness gives evidence in accordance with this section, for the purposes of this Code and the Evidence Act (Cap. 97), the witness is regarded as giving evidence in the presence of the accused.

(5) In this section, "shielding measure" means a screen or any other arrangement in a courtroom that prevents a witness from seeing the accused.

Evidence to be given in camera in certain cases

281B.—(1) Despite any provision of any other written law but subject to subsection (2), in any case where the accused is charged with a sexual offence or child abuse offence, the court must order that the evidence of a witness be given in camera, if —

(*a*) the witness is the alleged victim of that offence; and

(*b*) the witness does not elect to give evidence in an open and public court to which the public generally may have access.

(2) Subsection (1) does not apply to a matter or proceeding if —

(*a*) any other written law requires the matter or proceeding to be heard in camera; or

(*b*) the court has ordered, under any other written law, that the matter or proceeding be heard in camera.".

Repeal of section 287

82. Section 287 of the Code is repealed.

Amendment of section 291

83. Section 291(1) of the Code is amended by deleting the words "except a committal hearing".

Amendment of section 292

84. Section 292 of the Code is amended —

(*a*) by deleting the words "committal hearing or" in subsection (1); and

(*b*) by deleting the words "if the committal hearing results in a committal to stand trial in the High Court or" in subsection (2).

Amendment of section 293

85. Section 293(2) of the Code is amended by deleting the words "committal hearing or".

Amendment of section 297

86. Section 297 of the Code is amended by deleting the words "at a committal hearing" and substituting the words ", at a committal hearing under Division 2 of Part X as in force immediately before the date of commencement of section 47 of the Criminal Justice Reform Act 2018,".

Amendment of section 304

87. Section 304 of the Code is amended by inserting, immediately after the words "sentence of imprisonment" in subsections (1) and (2), the words ", or any sentence of imprisonment and fine".

Amendment of section 305

88. Section 305 of the Code is amended —

(*a*) by deleting the words "and his suitability for the sentence" in subsection (3) and substituting the words ", the

offender's suitability for the sentence, and the nature of the rehabilitation that is recommended for the offender"; and

(*b*) by inserting, immediately after subsection (5), the following subsections:

"(6) A sentence of reformative training must specify, as the minimum period of detention, such of the following periods as the court may determine to be the most appropriate for the rehabilitation of the offender:

(*a*) 6 months beginning on the date the sentence takes effect;

(*b*) 12 months beginning on the date the sentence takes effect.

(7) A sentence of reformative training (including any period of supervision under the sentence) must not extend beyond 54 months after the date the sentence takes effect.

(8) The period of detention under a sentence of reformative training must not extend beyond —

(*a*) 54 months after the date the sentence takes effect, in any case that may be prescribed; or

(*b*) 36 months after the date the sentence takes effect, in any other case.

(9) A sentence of reformative training (including any period of supervision under the sentence) that is imposed on a person expires if, while the person is serving the sentence —

(*a*) a sentence of corrective training, or another sentence of reformative training, is imposed on the person; or

(*b*) the person is detained under an order made under section 30(1) of the Criminal Law (Temporary Provisions) Act (Cap. 67).

(10) Where a person, while serving a sentence of reformative training (including any period of supervision under the sentence), is sentenced to imprisonment, the sentence of reformative training does not expire, but runs concurrently with the sentence of imprisonment.".

Amendment of section 313

89. Section 313 of the Code is amended by inserting, immediately after the word "should" in paragraph (*c*), the word "not".

Amendment of section 318

90. Section 318 of the Code is amended —

(*a*) by inserting, immediately after the words "a sentence of imprisonment", the words ", reformative training, corrective training or preventive detention"; and

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

"(2) To avoid doubt, where a court has directed under subsection (1) that a sentence of imprisonment, reformative training, corrective training or preventive detention is to take effect on a date later than the date the sentence was passed —

(*a*) the court may under that subsection further direct that the sentence is to take effect on another date; and

(*b*) the court may release the offender, during the period before the sentence is to take effect, on bail or on the offender's personal bond.

(3) To avoid doubt, a court may under subsection (1) direct that a sentence of imprisonment, reformative training, corrective

training or preventive detention is to take effect on a date earlier than the date the sentence is passed.

(4) Where an offender has been remanded in custody, or remanded in a psychiatric institution (whether for observation or otherwise) under Division 5 of Part XIII, for an offence, a court must consider directing that a sentence of imprisonment, reformative training, corrective training or preventive detention, which is to be imposed for that offence, is to take effect on a date earlier than the date the sentence is passed.

(5) Before directing the date on which a sentence of imprisonment, reformative training, corrective training or preventive detention, which is to be imposed for an offence, is to take effect, a court must consider all the circumstances of the case, including the following matters:

(*a*) the date on which the offender was arrested for the offence;

(*b*) the length of the period (if any) during which the offender was remanded in custody in relation to the offence;

(*c*) the length of the period (if any) during which the offender was remanded in a psychiatric institution (whether for observation or otherwise) under Division 5 of Part XIII in relation to the offence;

(*d*) the length of the period (if any), after the offender was arrested for the offence, during which the offender was not in custody.".

Amendment of section 337

91. Section 337 of the Code is amended —

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

"(*b*) an offence for which any of the following is prescribed by law:

(i) a specified minimum sentence of imprisonment or caning;

(ii) a mandatory minimum sentence of imprisonment, fine or caning;";

(*b*) by inserting, immediately after the words "to a term of imprisonment" in subsection (1)(*d*), the words "exceeding 3 months";

(*c*) by deleting the words "reformative training," in subsection (1)(*e*);

(*d*) by deleting paragraphs (*g*) and (*h*) of subsection (1) and substituting the following paragraphs:

"(*g*) a person who has been admitted —

(i) at least twice to an approved institution under section 34 of the Misuse of Drugs Act (Cap. 185) (called in this section an approved institution);

(ii) at least twice to an approved centre under section 17 of the Intoxicating Substances Act (Cap. 146A) (called in this section an approved centre); or

(iii) at least once to an approved institution, and at least once to an approved centre;

(*ga*) an offence under the Misuse of Drugs Act, the Misuse of Drugs Regulations (Cap. 185, Rg 1) or the Intoxicating

Substances Act, if the offender had previously been admitted to an approved institution or an approved centre;

(*h*) a fine-only offence; or";

(*e*) by deleting paragraphs (*a*) and (*b*) of subsection (2) and substituting the following paragraphs:

"(*a*) is a person mentioned in subsection (1)(*d*) or (*g*);

(*b*) is convicted of an offence under the Misuse of Drugs Act, the Misuse of Drugs Regulations or the Intoxicating Substances Act, after having previously been admitted to an approved institution or an approved centre; or

(*c*) is convicted of an offence that is punishable with imprisonment for a term exceeding 3 years but not exceeding 7 years, and is prescribed.";

(*f*) by deleting paragraph (*a*) of subsection (3) and substituting the following paragraph:

"(*a*) a fine-only offence; or";

(*g*) by deleting the words "a specified minimum sentence of fine or" in subsection (3)(*b*); and

(*h*) by inserting, immediately after subsection (5), the following subsections:

"(6) Despite subsection (5), before a court passes a community sentence in respect of any offence, the court may —

(*a*) impose on the offender any sentence of imprisonment that is provided for that offence; and

(*b*) suspend, for the period when any community order made in respect of that

offence is in force, the sentence of imprisonment that is imposed for that offence.

(7) Where the court sentences an offender under subsection (6)(*a*) to imprisonment for at least 3 distinct offences, the court must, in accordance with section 307(1), order the sentences for at least 2 of those offences to run consecutively, before the court —

(*a*) passes a community sentence in respect of all of those offences; and

(*b*) suspends under subsection (6)(*b*) all of those sentences of imprisonment.

(8) Subject to subsection (7), where the court sentences an offender under subsection (6)(*a*) to imprisonment for 2 or more distinct offences, the court may, in accordance with section 306, direct the sentences for those offences to run consecutively or concurrently, before the court —

(*a*) passes a community sentence in respect of all of those offences; and

(*b*) suspends under subsection (6)(*b*) all of those sentences of imprisonment.

(9) Where a sentence of imprisonment imposed on an offender for an offence is suspended under subsection (6)(*b*) for the period when a community order made in respect of that offence is in force, the court must lift the suspension and direct that the sentence of imprisonment be carried out, if that community order is revoked under section 352(5)(*c*) or 354(6)(*a*) or (7)(*a*).

(10) Despite section 377(2), where —

(*a*) a court directs under subsection (9) that a sentence of imprisonment, which was

suspended under subsection (6)(*b*), be carried out; and

(*b*) no notice of appeal was lodged by any party against the sentence of imprisonment when the sentence was imposed under subsection (6)(*a*),

a party who is not satisfied with the sentence of imprisonment may lodge with the Registrar of the Supreme Court (if the sentence was imposed by the High Court) or the Registrar of the State Courts (if the sentence was imposed by a State Court) a notice of appeal against the sentence of imprisonment within 14 days after the date of the court's direction under subsection (9).

(11) Except as provided in subsection (10), Division 1 of Part XX applies to an appeal commenced under that subsection as if the notice of appeal had been lodged in accordance with section 377(2).".

Amendment of section 339

92. Section 339 of the Code is amended —

(*a*) by deleting the words "24 months" in subsection (1) and substituting the words "36 months";

(*b*) by inserting, immediately after subsection (1), the following subsection:

"(1A) A mandatory treatment order may also require an offender to reside in a psychiatric institution during the whole or a specified part of the period that the offender is required to undergo psychiatric treatment."; and

(*c*) by inserting, immediately after subsection (4), the following subsection:

"(4A) A court may include the requirement mentioned in subsection (1A) in a mandatory

treatment order only upon the recommendation of the appointed psychiatrist.".

Amendment of section 352

93. Section 352 of the Code is amended —

(*a*) by deleting the words ", the court may" in subsection (5);

(*b*) by inserting, immediately before the words "without prejudice" in subsection (5)(*a*), the words "the court may,";

(*c*) by deleting the word "or" at the end of subsection (5)(*a*)(iii);

(*d*) by inserting, immediately before the words "taking into account" in subsection (5)(*b*), the words "subject to paragraph (*c*), the court may,";

(*e*) by deleting the full-stop at the end of paragraph (*b*) of subsection (5) and substituting the word "; or", and by inserting immediately thereafter the following paragraph:

"(*c*) where the order was made in respect of an offence after the court had imposed and suspended under section 337(6) a sentence of imprisonment for that offence, the court must revoke the order."; and

(*f*) by deleting the words "24 months" in subsection (9) and substituting the words "36 months".

Amendment of section 354

94. Section 354 of the Code is amended —

(*a*) by deleting the words "(with or without sureties)" in subsection (5) and substituting the words "or personal bond"; and

(*b*) by deleting subsections (6) and (7) and substituting the following subsections:

"(6) Where a community order has been made by a court in respect of an offender, and it is proved to the satisfaction of the court that the offender has been

convicted and dealt with in respect of any offence committed during the period when the community order is in force, the court —

(*a*) in any case where the community order was made in respect of an offence after the court had imposed and suspended under section 337(6) a sentence of imprisonment for that offence — must revoke the community order; or

(*b*) in any other case — may, taking into account the extent to which the offender has complied with the community order, revoke the community order and impose any sentence that is prescribed for the offence in respect of which the community order has been made.

(7) If a Magistrate's Court has made a community order in respect of an offender, and the offender is convicted before the High Court, a District Court or any other Magistrate's Court of an offence committed during the period when the community order is in force, the High Court, District Court or other Magistrate's Court (as the case may be) —

(*a*) in any case where the community order was made in respect of an offence after the firstmentioned Magistrate's Court had imposed and suspended under section 337(6) a sentence of imprisonment for that offence — must revoke the community order; or

(*b*) in any other case — may, taking into account the extent to which the offender has complied with the community order, revoke the community order and impose any sentence that is prescribed for the

offence in respect of which the community order has been made.".

Amendment of section 355

95. Section 355 of the Code is amended —

(*a*) by deleting the words "order that person to pay a sum to be fixed by the court by way of costs of his prosecution" in subsection (1) and substituting the words "make an order for costs, of an amount fixed by the court, to be paid by the person to any other party to the proceedings in which the person is convicted of the offence"; and

(*b*) by deleting the words "of prosecution against accused" in the section heading and substituting the words "by accused".

Amendment of section 356

96. Section 356 of the Code is amended —

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

"(1) The Court of Appeal or the High Court, in the exercise of its powers under Part XX, may —

(*a*) on its own motion, make an order for costs to be paid by any party to any other party as the Court thinks fit; or

(*b*) on the application of any party, make an order for costs, of such amount as the Court thinks fit, to be paid to that party by any other party."; and

(*b*) by deleting subsection (3) and substituting the following subsections:

"(3) Before the Court of Appeal or the High Court makes any order for costs to be paid by an accused to the prosecution, the Court must be satisfied that —

(*a*) the commencement, continuation or conduct of the matter under Part XX by the accused was an abuse of the process of the Court; or

(*b*) the conduct of the matter under Part XX by the accused was done in an extravagant and unnecessary manner.

(4) If the prosecution applies to the Court of Appeal or the High Court for an order for the costs of any matter under Division 1B of Part XX to be paid by an accused to the prosecution on the ground that the commencement, continuation or conduct of that matter by the accused was an abuse of the process of the Court, the Court must state whether it is satisfied that the commencement, continuation or conduct of that matter by the accused was an abuse of the process of the Court.".

Amendment of section 357

97. Section 357 of the Code is amended —

(*a*) by inserting, immediately after the words "costs have been incurred unreasonably or improperly in any proceedings" in subsection (1), the words "(for example, by commencing, continuing or conducting a matter the commencement, continuation or conduct of which is an abuse of the process of the Court)"; and

(*b*) by inserting, immediately after subsection (1), the following subsection:

"(1A) If the Court of Appeal or the High Court makes an order under subsection (1)(*a*) or (*b*) in respect of any proceedings for a matter under Division 1B of Part XX, and the prosecution has applied to the Court for an order for the costs of that matter to be paid to the prosecution on the ground that the commencement, continuation or conduct of that matter was an abuse of the process of the Court, the

Court must state whether it is satisfied that the commencement, continuation or conduct of that matter was an abuse of the process of the Court.".

Amendment of section 359

98. Section 359 of the Code is amended —

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

"(1) The court before which an offender is convicted of any offence must, after the conviction, decide whether to make an order for the payment by the offender of compensation to any of the following persons:

(*a*) a person who is injured (in respect of the person's body, character or property) by any offence —

(i) for which the offender is sentenced; or

(ii) that is taken into consideration under section 148 when the offender is sentenced;

(*b*) a representative of a person mentioned in paragraph (*a*);

(*c*) a dependant of a person whose death was caused by any offence —

(i) for which the offender is sentenced; or

(ii) that is taken into consideration under section 148 when the offender is sentenced.

(1A) An order under subsection (1) for the payment of compensation to a dependant of a person whose death was caused by any offence mentioned in subsection (1)(*c*) —

(*a*) may only be made in respect of —

(i) any damages for bereavement that may be claimed under section 21 of the Civil Law Act (Cap. 43) for the benefit of that dependant, in an action under section 20 of that Act; and

(ii) if that dependant had incurred funeral expenses in respect of that person, any damages that may be awarded under section 22(4) of the Civil Law Act in respect of those funeral expenses, in an action under section 20 of that Act; and

(*b*) may be made regardless of whether there is any action brought under section 20 of the Civil Law Act for the benefit of the dependants of that person.

(1B) An order under subsection (1) for the payment of compensation must specify the amount of the compensation to be paid by the offender under the order.";

(*b*) by deleting the words "such an order referred to in subsection (1)" in subsection (2) and substituting the words "an order under subsection (1)";

(*c*) by inserting, immediately after subsection (2), the following subsections:

"(2A) In a case where subsection (1) empowers the court to make an order for the payment of compensation, the court must, on passing sentence, give reasons if the court does not make such an order.

(2B) In deciding whether to make an order under subsection (1) for the payment of compensation, and in deciding the amount to be paid by the offender under such an order, the court must have regard to the

offender's means so far as those means appear or are known to the court.

(2C) Before making an order under subsection (1) against an offender, the court may make a financial circumstances order in relation to the offender.

(2D) Before the court decides whether to make an order under subsection (1) for the payment of compensation to a person mentioned in subsection (1)(*a*), a representative mentioned in subsection (1)(*b*), or a dependant mentioned in subsection (1)(*c*) —

(*a*) the person, representative or dependant (as the case may be) must be notified, in the manner prescribed in the Criminal Procedure Rules, of the proceedings in which the court will decide whether to make the order; and

(*b*) the person, representative or dependant (as the case may be) is entitled to adduce evidence, and to make submissions, in relation to the order, at those proceedings.

(2E) Despite subsection (2D), none of the following persons may appeal under section 377 against an order under subsection (1):

(*a*) a person mentioned in subsection (1)(*a*);

(*b*) a representative mentioned in subsection (1)(*b*);

(*c*) a dependant mentioned in subsection (1)(*c*).”; and

(*d*) by inserting, immediately after subsection (5), the following subsection:

"(6) In this section —

"dependant" means a person mentioned in section 20(8)(*a*) to (*e*) or 21(2)(*a*) to (*e*) of the Civil Law Act;

"financial circumstances order", in relation to an offender, means an order that —

(*a*) requires the offender to give to the court, within a period specified in the order, any statement and evidence of the offender's financial circumstances that the court may require; and

(*b*) if the offender is below 18 years of age, requires a parent of the offender to give to the court, within a period specified in the order, any statement and evidence of the parent's financial circumstances that the court may require;

"parent" includes an adoptive parent.".

Amendment of section 363

99. Section 363 of the Code is amended by deleting the words "such regulations as may be prescribed by the Minister" and substituting the words "the Criminal Procedure Rules".

Repeal and re-enactment of section 370

100. Section 370 of the Code is repealed and the following section substituted therefor:

"**Procedure governing seizure of property**

370.—(1) If a law enforcement officer seizes any property in the exercise of any power under section 35 or 78, the law enforcement officer must make a report of the seizure to the relevant court at the earlier of the following times:

(*a*) when the law enforcement officer considers that the property is not relevant for the purposes of any investigation, inquiry, trial or other proceeding under any written law;

(*b*) one year after the date of seizure of the property.

(2) Subject to subsection (3), and to any provisions on forfeiture, confiscation, destruction or delivery in any other written law under which property may be seized, the relevant court must, upon receiving a report mentioned in subsection (1), make such of the following orders as may be applicable:

(*a*) in any case where the property consists of a computer and any data stored in the computer, and the relevant court is satisfied that an offence was committed in respect of the data, or that the data was used or intended to be used to commit an offence — an order for —

(i) the deletion of the data from the computer, and the delivery of the computer (after the deletion of the data) to the person entitled to possession of the computer; or

(ii) if that person cannot be ascertained, the deletion of the data from the computer, and the custody and production of the computer (after the deletion of the data);

(*b*) in any case where the relevant court is satisfied that an offence was committed in respect of the property, or that the property was used or intended to be used to commit an offence — such order as the relevant court thinks fit for the disposal of the property;

(*c*) in any case where the relevant court is satisfied that the property consists of anything into which any property mentioned in paragraph (*b*) has been converted, anything for which any property mentioned in paragraph (*b*) has been exchanged, or anything acquired (whether immediately or later) by

this conversion or exchange — such order as the relevant court thinks fit for the disposal of the property;

(*d*) in any case where the relevant court is satisfied that the property does not consist of any property mentioned in paragraph (*a*), (*b*) or (*c*), and the person entitled to possession of the property consents to the use of the property for compensation or restitution, or to the forfeiture of the property — such order as the relevant court thinks fit for the disposal of the property;

(*e*) in any other case, an order relating to —

(i) the delivery of the property to the person entitled to possession of the property; or

(ii) if that person cannot be ascertained, the custody and production of the property.

(3) The relevant court must not dispose of the property if —

(*a*) there is any pending court proceeding under any written law in relation to the property; or

(*b*) the relevant court is satisfied that the property is relevant for the purposes of any investigation, inquiry, trial or other proceeding under any written law.

(4) Where the relevant court is not a Magistrate's Court, the relevant court may, instead of making an order under subsection (2), direct that the property be delivered to a Magistrate, who must deal with the property in accordance with subsection (2) as if the report mentioned in subsection (1) was made to a Magistrate's Court.

(5) On and after the date of commencement of section 100 of the Criminal Justice Reform Act 2018 —

(*a*) this section applies to any property seized or taken before that date, under section 370(1) of this Code as in force immediately before that date, or under section 35 or 78 — if no Magistrate's Court has

exercised, in relation to that property, any power under section 370 of this Code as in force immediately before that date;

(*b*) this section applies to any report made before that date, under section 370(1) of this Code as in force immediately before that date, of the seizure of any property, as if that report had been made under subsection (1) — if no Magistrate's Court has exercised, in relation to that property, any power under section 370 of this Code as in force immediately before that date; and

(*c*) section 370 of this Code as in force immediately before that date continues to apply, in every case where a Magistrate's Court has exercised before that date any power under that section, as if this section had not been enacted.

(6) In this section and sections 371 and 372 —

"law enforcement officer" means —

(*a*) a police officer;

(*b*) an officer of the Central Narcotics Bureau;

(*c*) an immigration officer appointed under section 3 of the Immigration Act (Cap. 133);

(*d*) a Commercial Affairs Officer appointed under section 64 of the Police Force Act (Cap. 235);

(*e*) a public officer appointed as the Director, a deputy director, an assistant director or a special investigator of the Corrupt Practices Investigation Bureau; or

(*f*) any other officer, of a prescribed law enforcement agency;

"relevant court" means —

(*a*) in any case where the property was seized for the purposes of a particular inquiry, trial or

proceeding — the court before which that inquiry, trial or proceeding is held; or

(*b*) in any other case, a Magistrate's Court.".

Amendment of section 371

101. Section 371 of the Code is amended —

(*a*) by deleting the words "Magistrate's Court" wherever they appear in subsections (1), (3) and (4) and substituting in each case the words "relevant court"; and

(*b*) by deleting subsection (5) and substituting the following subsection:

"(5) The relevant court must cause the net proceeds of the sale under subsection (3) or (4) to be paid, on demand, to the person entitled.".

Amendment of section 372

102. Section 372 of the Code is amended by deleting the words "Magistrate's Court" in subsections (1) and (7) and substituting in each case the words "relevant court".

Amendment of section 373

103. Section 373 of the Code is amended by deleting the definition of "appellate court" and substituting the following definition:

" "appellate court" —

(*a*) means any court when exercising its appellate criminal jurisdiction; and

(*b*) includes, for the purposes only of Division 1B, the Court of Appeal when exercising its jurisdiction under Division 1A or section 397;".

Amendment of section 374

104. Section 374(1) of the Code is amended by inserting, immediately after the words "any judgment, sentence or order of a

court", the words ", or any decision of the High Court mentioned in section 149M(1),".

Amendment of section 378

105. Section 378 of the Code is amended by inserting, immediately after subsection (5), the following subsection:

"(5A) Where every party to the appeal consents to the withdrawal of the appeal, the court may summarily give leave to withdraw the appeal by an order under the hand of a Judge of Appeal or a Judge, without the appeal being set down for hearing.".

Amendment of section 390

106. Section 390 of the Code is amended by inserting, immediately after subsection (10), the following subsection:

"(11) To avoid doubt, everything done by the appellate court under this section is done in the exercise of its appellate jurisdiction.".

Amendment of section 394A

107. Section 394A of the Code is amended by deleting subsection (1) and substituting the following subsection:

"(1) Where the High Court passes a sentence of death on an accused —

(*a*) if there is no appeal by the accused pending immediately after the expiry of the time allowed under this Code for an appeal — the Public Prosecutor must, on the expiry of 90 days after the time allowed under this Code for an appeal —

(i) lodge a petition for confirmation with the Registrar of the Supreme Court; and

(ii) serve the petition on the accused; or

(*b*) if there is an appeal by the accused pending immediately after the expiry of the time allowed under this Code for an appeal, but the accused

subsequently withdraws that appeal — the Public Prosecutor must, on the expiry of 90 days after the date of the withdrawal of that appeal —

(i) lodge a petition for confirmation with the Registrar of the Supreme Court; and

(ii) serve the petition on the accused.".

New Division 1B of Part XX

108. The Code is amended by inserting, immediately after section 394E, the following Division:

"*Division 1B — Review of earlier decision of appellate court*

Interpretation of this Division

394F.—(1) In this Division, unless the context otherwise requires —

"civil application" means an application to a court when exercising its civil jurisdiction, and includes, where the court is the Court of Appeal, an appeal to the Court of Appeal from any judgment or order of the High Court in such an application;

"leave application" means an application for leave to make a review application;

"review application" means an application to review an earlier decision of an appellate court.

(2) In this Division, unless the context otherwise requires, a civil application is related to a review application made in respect of an earlier decision if —

(*a*) any common question of law or fact arises in both applications; or

(*b*) any relief claimed in the civil application —

(i) may affect the review application in any way; or

(ii) may affect the outcome of the criminal matter in respect of which the earlier decision was made.

(3) In this Division, unless the context otherwise requires, a reference to a decision of a court is a reference to everything decided by the court, and everything comprised in the judgment, sentence or order (if any) of the court, when the court —

(*a*) delivers judgment in a criminal trial, criminal appeal, case stated, criminal revision or criminal reference; or

(*b*) issues a certificate under section 394E(1) confirming the imposition of the sentence of death on the accused.

Conditions for making review application

394G.—(1) A review application cannot be made in respect of an earlier decision of an appellate court unless any of the following applies:

(*a*) the earlier decision is a decision of the appellate court on the merits of an appeal;

(*b*) the earlier decision is a decision of the appellate court to dismiss an appeal under section 387(3) after the appellant fails to appear at the hearing of the appeal, and the appellate court does not reinstate the appeal under section 387(3);

(*c*) where the appellate court is the Court of Appeal — the earlier decision is a decision of the Court of Appeal to issue a certificate under section 394E(1) confirming the imposition of the sentence of death on the accused;

(*d*) where the appellate court is the Court of Appeal — the earlier decision is —

(i) a determination by the Court of Appeal of any question of law of public interest referred to the Court of Appeal under section 397; or

(ii) an order made by the Court of Appeal under section 397(5).

(2) A review application cannot be made by the Public Prosecutor, unless the Public Prosecutor alleges that the earlier decision is tainted by fraud or a breach of the rules of natural justice, and that the integrity of the judicial process is thereby compromised.

Application for leave to make review application

394H.—(1) Before making a review application, the applicant must apply to the appellate court for, and obtain, the leave of that court to do so.

(2) A leave application must be fixed for hearing within such period as is prescribed by the Criminal Procedure Rules.

(3) The applicant in a leave application must file written submissions in support of that application, and such other documents as are prescribed in the Criminal Procedure Rules, within such periods as are prescribed in the Criminal Procedure Rules.

(4) The respondent in a leave application may file written submissions in relation to that application within such period as is prescribed in the Criminal Procedure Rules.

(5) The appellate court may extend any period mentioned in subsection (2), (3) or (4).

(6) A leave application is to be heard —

(*a*) in any case where the appellate court is the Court of Appeal — by a single Judge of Appeal; or

(*b*) in any case where the appellate court is the High Court — by the Judge who made the decision to be reviewed or, if that Judge is not available, by any Judge.

(7) A leave application may, without being set down for hearing, be summarily dealt with by a written order of the appellate court.

(8) Before summarily refusing a leave application, the appellate court —

(*a*) must consider the applicant's written submissions (if any); and

(*b*) may, but is not required to, consider the respondent's written submissions (if any).

(9) Before summarily granting leave to make a review application, the appellate court —

(*a*) must consider the applicant's written submissions (if any); and

(*b*) must consider the respondent's written submissions (if any).

Hearing of review application

394I.—(1) Where the appellate court grants leave to make a review application, the review application must be made to the appellate court, and fixed for hearing, within such period as is prescribed by the Criminal Procedure Rules.

(2) The applicant in a review application must file such documents in support of that application, within such period, as are prescribed in the Criminal Procedure Rules.

(3) The respondent in a review application must file such documents in relation to that application, within such period, as are prescribed in the Criminal Procedure Rules.

(4) The appellate court may extend any period mentioned in subsection (1), (2) or (3).

(5) A review application is to be heard —

(*a*) in any case where the appellate court is the Court of Appeal — by 3 Judges of Appeal or, if the Chief Justice so directs, by 5 or any greater uneven number of Judges of Appeal; or

(*b*) in any case where the appellate court is the High Court — by a single Judge or, if the Chief Justice so directs, by 3 or any greater uneven number of Judges.

(6) The appellate court may hear a review application and any related civil application at the same time or one immediately after another.

(7) Despite subsections (1), (5) and (6) —

(*a*) the Court of Appeal may hear a review application made to the High Court in respect of an earlier decision of the High Court;

(*b*) the Court of Appeal may hear a civil application, made to the High Court, that is related to a review application (whether made to the Court of Appeal or to the High Court);

(*c*) where the Court of Appeal so orders, the Court of Appeal may hear a review application (whether made to the Court of Appeal or to the High Court) and any related civil application (whether made to the Court of Appeal or to the High Court) at the same time or one immediately after another; and

(*d*) every review application or civil application heard by the Court of Appeal under this subsection is to be heard by 3 Judges of Appeal or, if the Chief Justice so directs, by 5 or any greater uneven number of Judges of Appeal.

(8) An appellate court, which hears a review application in respect of an earlier decision of that court, may exercise any power and make any order that could have been exercised and made, respectively, by the court that made the earlier decision.

(9) Where the appellate court is the High Court, but a review application made in respect of an earlier decision of the appellate court is heard by the Court of Appeal —

(*a*) the Court of Appeal may exercise any power and make any order that could have been exercised and made, respectively, by the appellate court that made the earlier decision; and

(*b*) any reference in this Division to the exercise of a power, or the doing of a thing, by the appellate court in relation to the review application includes a reference to the exercise of that power, or the doing of that thing, by the Court of Appeal.

(10) A review application may, without being set down for hearing, be summarily dealt with by a written order of the appellate court.

(11) Before summarily refusing a review application, the appellate court —

(*a*) must consider the applicant's written submissions (if any); and

(*b*) may, but is not required to, consider the respondent's written submissions (if any).

(12) Except where subsection (11) applies, before summarily deciding a review application on its merits, the appellate court —

(*a*) must consider the applicant's written submissions (if any); and

(*b*) must consider the respondent's written submissions (if any).

Requirements for exercise of power of review under this Division

394J.—(1) This section —

(*a*) sets out the requirements that must be satisfied by an applicant in a review application before an appellate court will exercise its power of review under this Division; and

(*b*) does not affect the inherent power of an appellate court to review, on its own motion, an earlier decision of the appellate court.

(2) The applicant in a review application must satisfy the appellate court that there is sufficient material (being evidence

or legal arguments) on which the appellate court may conclude that there has been a miscarriage of justice in the criminal matter in respect of which the earlier decision was made.

(3) For the purposes of subsection (2), in order for any material to be "sufficient", that material must satisfy all of the following requirements:

(*a*) before the filing of the application for leave to make the review application, the material has not been canvassed at any stage of the proceedings in the criminal matter in respect of which the earlier decision was made;

(*b*) even with reasonable diligence, the material could not have been adduced in court earlier;

(*c*) the material is compelling, in that the material is reliable, substantial, powerfully probative, and capable of showing almost conclusively that there has been a miscarriage of justice in the criminal matter in respect of which the earlier decision was made.

(4) For the purposes of subsection (2), in order for any material consisting of legal arguments to be "sufficient", that material must, in addition to satisfying all of the requirements in subsection (3), be based on a change in the law that arose from any decision made by a court after the conclusion of all proceedings relating to the criminal matter in respect of which the earlier decision was made.

(5) For the purposes of subsection (2), the appellate court may conclude that there has been a miscarriage of justice in the criminal matter in respect of which the earlier decision was made, only if —

(*a*) the earlier decision (being a decision on conviction or sentence) is demonstrably wrong; or

(*b*) the earlier decision is tainted by fraud or a breach of the rules of natural justice, such that the integrity of the judicial process is compromised.

(6) For the purposes of subsection (5)(*a*), in order for an earlier decision on conviction to be "demonstrably wrong" —

(*a*) it is not sufficient that there is a real possibility that the earlier decision is wrong; and

(*b*) it must be apparent, based only on the evidence tendered in support of the review application and without any further inquiry, that there is a powerful probability that the earlier decision is wrong.

(7) For the purposes of subsection (5)(*a*), in order for an earlier decision on sentence to be "demonstrably wrong", it must be shown that the decision was based on a fundamental misapprehension of the law or the facts, thereby resulting in a decision that is blatantly wrong on the face of the record.

Other matters concerning review applications and leave applications

394K.—(1) An applicant cannot make more than one review application in respect of any decision of an appellate court.

(2) An applicant cannot make a review application in respect of an earlier decision of an appellate court after —

(*a*) in any case where a court hears a related civil application made by the same applicant and reserves judgment in that related civil application — the time that court reserves judgment in that related civil application; or

(*b*) in any other case where a court hears a related civil application made by the same applicant — the time that court delivers judgment in that related civil application.

(3) Where the appellate court is the High Court, no appeal may lie against a decision of the appellate court on a leave application or a review application.

(4) Where the appellate court is the High Court, no application under section 397(1), and no reference under section 397(2),

may be made in respect of a decision of the appellate court on a leave application or a review application.

(5) No leave application, and no review application, may be made in respect of a decision of an appellate court on a leave application or a review application.".

Amendment of section 397

109. Section 397 of the Code is amended —

(*a*) by inserting, immediately after subsection (3), the following subsections:

"(3A) Where an application under subsection (1) or a reference under subsection (2) is made, the High Court must send to the Court of Appeal a signed copy of the record of the proceedings, and the grounds of decision, for the matter to which the application or reference relates.

(3B) Where —

(*a*) a party applies under subsection (1) for leave to refer a question to the Court of Appeal; and

(*b*) it appears to the Court of Appeal that the question is not a question of law of public interest which has arisen in the matter, and the determination of which has affected the case, to which the application relates,

the application may, without being set down for hearing, be summarily refused by an order, under the hand of a presiding Judge of Appeal, certifying that the Court of Appeal is satisfied that the application was made without any sufficient ground.

(3C) A decision of the Court of Appeal to summarily refuse under subsection (3B) an application under subsection (1) can only be made by a unanimous decision of all the Judges of Appeal.

(3D) Notice of a refusal under subsection (3B) of an application under subsection (1) must be served on the applicant.

(3E) Where, after the Court of Appeal has summarily refused under subsection (3B) an application under subsection (1) (called in this subsection the leave application), the applicant gives, within 14 days after the service of the notice of the refusal on the applicant, to the Registrar of the Supreme Court —

(*a*) notice of an application to amend the leave application, so as to raise a question of law of public interest which has arisen in the matter, and the determination of which has affected the case, to which the leave application relates; and

(*b*) a certificate signed by an advocate specifying the question to be raised and undertaking to argue it,

the Chief Justice may allow the applicant to amend the leave application accordingly, and must restore the leave application for hearing."; and

(*b*) by deleting subsection (6) and substituting the following subsection:

"(6) For the purposes of this section, each of the following is deemed to be a question of public interest:

(*a*) any question of law regarding which there is a conflict of judicial authority;

(*b*) any question of law that the Public Prosecutor refers.".

Repeal and re-enactment of section 405

110. Section 405 of the Code is repealed and the following section substituted therefor:

"**Motion**

405.—(1) A motion to the High Court or the Court of Appeal in respect of any criminal matter must be made in accordance with this Division.

(2) In this Division, the relevant court is the court to which the motion is made.".

Amendment of section 406

111. Section 406 of the Code is amended by deleting subsection (2) and substituting the following subsection:

"(2) There must be at least 7 clear days between the service of the notice of a criminal motion and the day named in the notice for hearing the motion, unless —

(*a*) the relevant court gives leave to the contrary; or

(*b*) each party required to be served with the notice consents to the relief or remedy that is sought under the motion.".

Repeal and re-enactment of section 408 and new sections 408A and 408B

112. Section 408 of the Code is repealed and the following sections substituted therefor:

"**Adjournment of hearing**

408. The hearing of a criminal motion may be adjourned from time to time by the relevant court on such terms as the relevant court thinks fit.

Dealing with motion in absence of parties, etc.

408A.—(1) The relevant court may deal with a criminal motion in the absence of the parties to the proceedings, if —

(*a*) the respondent is —

(i) the prosecution; or

(ii) an accused who is represented by an advocate; and

(*b*) each party —

(i) consents to the motion being dealt with in the absence of that party; and

(ii) consents to the relief or remedy that is sought under the motion.

(2) Where subsection (1) applies, but the relevant court is not inclined to grant the relief or remedy that is sought under the motion —

(*a*) the motion must be set down for hearing; and

(*b*) each party to the proceedings must be informed of the date and time appointed for the hearing.

(3) The relevant court may, after hearing every party that attends the hearing mentioned in subsection (2), make such order as the relevant court thinks fit.

(4) Where every party to the proceedings consents to the withdrawal of the motion, the relevant court may summarily give leave to withdraw the motion by an order under the hand of a Judge of Appeal or a Judge, without the motion being set down for hearing.

Decision or order affecting lower court

408B. Where, on hearing or dealing with a criminal motion, the relevant court makes a decision or an order that affects a lower court, the relevant court must certify its decision or order to the lower court.".

Amendment of section 409

113. Section 409 of the Code is amended —

(*a*) by deleting the words "the High Court" and substituting the words "the relevant court"; and

(*b*) by deleting the words "the Court" wherever they appear and substituting in each case the words "the relevant court".

New section 425A

114. The Code is amended by inserting, immediately after section 425, the following section:

"**Prohibition against publication, etc., that identifies complainant or alleged victim of sexual offence or child abuse offence**

425A.—(1) Subject to subsection (2), where any person knows that an individual is a complainant, or an alleged victim, of a sexual offence or child abuse offence, that person must not do any of the following things:

(*a*) publish the name, address or photograph of the individual;

(*b*) publish any evidence, or any other thing, that is likely to lead to the identification of the individual as a complainant, or an alleged victim, of a sexual offence or child abuse offence;

(*c*) do any other act that is likely to lead to the identification of the individual as a complainant, or an alleged victim, of a sexual offence or child abuse offence.

(2) Subsection (1) ceases to apply to an individual who is a complainant of a sexual offence or child abuse offence, if —

(*a*) the individual is convicted of any offence under section 182, 193, 194, 195, 196, 199, 200, 201, 202, 203, 204, 204A, 204B, 209, 211, 213 or 214 of the Penal Code (Cap. 224); and

(*b*) the conviction involves a finding by the court that the individual's complaint of the sexual offence or child abuse offence was false in any material point.

(3) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $5,000 or to imprisonment for a term not exceeding 3 years or to both.

(4) To avoid doubt, this section does not affect any other written law that may prohibit a person from doing any thing mentioned in subsection (1)(*a*), (*b*) or (*c*).".

Amendment of section 426

115. Section 426 of the Code is amended —

(*a*) by deleting subsection (2); and

(*b*) by inserting, immediately after subsection (4), the following subsection:

"(5) Every application to the court under subsection (1) or (4) may be dealt with, and the power of the court under subsection (3) may be exercised, by —

(*a*) the Registrar of the Supreme Court, if the court is the Court of Appeal or the High Court;

(*b*) the Registrar of the Family Justice Courts, if the court is a Family Court or a Youth Court; or

(*c*) the Registrar of the State Courts, if the court is a District Court or a Magistrate's Court.".

Amendment of section 428

116. Section 428 of the Code is amended —

(*a*) by deleting paragraphs (*a*) to (*e*) of subsection (2) and substituting the following paragraphs:

"(*a*) the treatment, training and detention of persons sentenced to reformative training, corrective training or preventive detention,

including any matter relating to the supervision of such persons when they are released from their places of detention;

(*b*) the recording of statements in the form of audiovisual recordings, and the prevention of the following:

(i) the making of any unauthorised copy of any such audiovisual recording;

(ii) the unauthorised possession of any recording device during the recording of any such statement or the viewing of any such audiovisual recording;

(iii) the unauthorised use or distribution of any such audiovisual recording;

(*c*) the prescribing of any additional method mentioned in section 3(1)(*j*) for serving any notice, order or document (other than a summons or a notice to attend court issued under this Code) required or permitted to be served on a person under this Code, including —

(i) prescribing different additional methods of service for different types of notices, orders or documents;

(ii) restricting the application of a particular additional method of service to a particular type of notice, order or document; and

(iii) prescribing the conditions for the application of any particular additional method of service, whether generally or to any

particular type of notice, order or document;

(*d*) the prescribing of any matters relating to section 20(1), (1A), (3) and (3A), including prescribing —

(i) the persons who must set up a system for receiving and responding automatically to a written order under section 20(1)(*b*), (1A), (3)(*b*) or (3A) and the operational details of the system;

(ii) any matters concerning the service of a written order under section 20(1), (1A), (3) or (3A);

(iii) the form and manner in which a person must produce, give access to or deliver a copy of a document or thing for the purposes of section 20(1)(*a*)(iii) or (*b*)(i) or (ii) or (3)(*b*);

(iv) the manner in which a person must authenticate data, or a copy of data, for the purposes of section 20(1A)(*a*)(i) or (*b*)(i) or (3A)(*a*)(i) or (*b*)(i);

(v) the form and manner in which a person must produce data, or a copy of data, for the purposes of section 20(1A)(*a*)(ii) or (*b*)(ii) or (3A)(*a*)(ii) or (*b*)(ii);

(*e*) the electronic monitoring of the whereabouts of an accused who is granted bail or released on personal bond, for the purposes of section 94;

(*f*) the prescribing of anything that is required or permitted by this Code to be prescribed."; and

(*b*) by inserting, immediately after subsection (2), the following subsections:

"(3) The regulations made for or with respect to the matters in subsection (2)(*b*) —

(*a*) may provide that a contravention of any specified provision of those regulations shall be an offence;

(*b*) may provide for penalties not exceeding a fine of $2,000 or imprisonment for a term not exceeding 2 years or both for each offence; and

(*c*) may provide for any offence under those regulations to be an arrestable offence.

(4) The powers conferred by this section do not extend to any matter for which Criminal Procedure Rules may be made under section 428A.".

New section 428A

117. The Code is amended by inserting, immediately after section 428, the following section:

"**Criminal Procedure Rules Committee and Criminal Procedure Rules**

428A.—(1) A committee called the Criminal Procedure Rules Committee is constituted by this section.

(2) The Criminal Procedure Rules Committee consists of the following members:

(*a*) the Chief Justice, who is the chairperson of the Committee;

(*b*) 2 Judges of the Supreme Court (excluding the Presiding Judge of the State Courts), each of whom

is appointed by the Chief Justice for such period as the Chief Justice may specify in writing;

(*c*) the Presiding Judge of the State Courts;

(*d*) the Registrar of the Supreme Court;

(*e*) a District Judge, who is appointed by the Chief Justice for such period as the Chief Justice may specify in writing;

(*f*) the Public Prosecutor, or a member appointed by the Public Prosecutor under this paragraph for such period as the Public Prosecutor may specify in writing;

(*g*) 2 members, each of whom is appointed by the Public Prosecutor under this paragraph for such period as the Public Prosecutor may specify in writing;

(*h*) 2 practising advocates and solicitors, each of whom is appointed by the Minister for such period as the Minister may specify in writing;

(*i*) 2 public officers, each of whom is appointed by the Minister charged with the responsibility for home affairs for such period as that Minister may specify in writing.

(3) The Criminal Procedure Rules Committee may make Criminal Procedure Rules regulating and prescribing the procedure and the practice to be followed in each court in all matters in or with respect to which that court for the time being exercises criminal jurisdiction and any matters incidental to or relating to any such procedure or practice.

(4) Without limiting subsection (3), Criminal Procedure Rules may be made for or with respect to all or any of the following matters:

(*a*) any form that is to be used by any person in relation to any matter under this Code;

(*b*) the disclosure of and access to any document or material in the possession of the prosecution or the

defence, including any statement recorded under section 22 or 23 in the form of an audiovisual recording;

(*c*) for giving effect to Parts IX, X and XI;

(*d*) the rates or scales of payment of the expenses and compensation that may be ordered under section 363, and any matter concerning the payment of the expenses and compensation;

(*e*) in relation to documents being filed with, served on, delivered or otherwise conveyed to any court or any party to any criminal matter —

(i) the establishment of any electronic filing service and any other matter that relates to the use or operation of the electronic filing service;

(ii) the manner and form of any such filing, service, delivery or conveyance;

(iii) the modification of such provisions of the Evidence Act (Cap. 97) as may be necessary for the purpose of facilitating the use in court of documents filed, served, delivered or conveyed using the electronic filing service;

(iv) the burden of proof and rebuttable presumptions in relation to the identity and authority of the person filing, serving, delivering or conveying the documents by the use of the electronic filing service;

(v) the authentication of documents filed, served, delivered or conveyed by the use of the electronic filing service; and

(vi) the means by which particular facts may be proved, and the mode in which evidence of those facts may be given, in any proceedings which involve the use or operation of the electronic filing service;

(*f*) the prescribing of anything that is required or permitted to be prescribed by Criminal Procedure Rules.

(5) The quorum for a meeting of the Criminal Procedure Rules Committee is 7 members.

(6) Each member has one vote.

(7) A decision is adopted by the Criminal Procedure Rules Committee at a meeting if a majority of the votes cast on it are in favour of it.

(8) A member present at a meeting of the Criminal Procedure Rules Committee is presumed to have agreed to, and to have cast a vote in favour of, a decision of the Committee, unless the member expressly votes against the decision at the meeting.

(9) The members may, in place of the procedure described in subsections (7) and (8), adopt a decision by assenting to the decision in writing, if —

(*a*) all of the members are given (whether by post, personal delivery or electronic communication) the terms of the decision to be made; and

(*b*) a majority of those members who are entitled to vote on the matter sign or approve a document containing the terms of the decision to be made and a statement that they are in favour of those terms.

(10) Where subsection (9) applies, the decision is deemed to have been adopted at a meeting of the Criminal Procedure Rules Committee on the date on which the document containing the terms of the decision to be made is signed or approved by the last member required to form the majority of members in favour of the decision.

(11) For the purposes of subsections (9) and (10), the adoption of a decision by the Criminal Procedure Rules Committee may consist of several documents containing the same terms of the decision to be made, each signed or approved by one or more members.

(12) Criminal Procedure Rules made under this section cannot come into operation unless they have been approved by the Chief Justice and the Minister.

(13) All Criminal Procedure Rules made under this section must be presented to Parliament as soon as possible after publication in the *Gazette*.

(14) This section does not affect either of the following:

(*a*) any other written law that confers power to make subsidiary legislation for regulating or prescribing the procedure and practice to be followed by any court when exercising criminal jurisdiction, or jurisdiction of a quasi-criminal nature, in any proceedings;

(*b*) any subsidiary legislation made under any such written law.

(15) Until the Criminal Procedure Rules Committee makes Criminal Procedure Rules on any matter mentioned in subsection (3) or (4), or for any other purpose mentioned in this Code —

(*a*) the Minister may make rules under this subsection for that matter or purpose; and

(*b*) the following are deemed to be Criminal Procedure Rules:

(i) any rules mentioned in paragraph (*a*);

(ii) any regulations made, before the date of commencement of section 117 of the Criminal Justice Reform Act 2018, under section 428 as in force before that date, for that matter or purpose.

(16) When the Criminal Procedure Rules Committee makes Criminal Procedure Rules on any matter mentioned in subsection (3) or (4), or for any other purpose mentioned in this Code —

(*a*) any subsidiary legislation mentioned in subsection (15) that was made for that matter or purpose must be revoked; and

(*b*) those Criminal Procedure Rules may contain such provisions of a saving or transitional nature consequent on the enactment of those Criminal Procedure Rules, or on the revocation of that subsidiary legislation, as the Criminal Procedure Rules Committee may consider necessary or expedient.".

Amendment of First Schedule

118. The First Schedule to the Code is amended —

(*a*) by deleting the word "Ditto" under the fifth column in the following items and substituting the words "Not bailable":

(i) the second item relating to section 115 of the Penal Code (relating to the offence bearing the description "If an act which causes harm is done in consequence of the abetment" under the second column);

(ii) the second item relating to section 118 of the Penal Code (relating to the offence bearing the description "If the offence is not committed" under the second column);

(iii) the items relating to sections 121A, 121B, 121C, 121D, 122, 123, 124, 125, 126, 127, 128, 129, 130, 130C, 132, 133, 134, 144, 145, 147, 148, 152, 158 (both items), 195, 197, 198, 199, 200, 202, 203, 204, 204A, 204B, 205, 206, 207, 208, 209, 210, 211 (both items), 212 (all 3 items), 213 (all 3 items), 214 (all 3 items), 215, 216 (all 3 items), 216A, 217, 218, 219, 220, 221 (all 3 items), 223, 224, 225B, 227, 229, 232, 233, 234, 235 (both items), 236, 237, 238, 239, 240, 241, 241A, 242, 243, 246, 247, 248, 249, 250, 251, 252, 253, 254, 254A, 267C, 304(*a*), 304(*b*), 306, 307(1) (both items), 307(2), 308 (both items), 309, 314 (both items), 315, 316, 327, 328, 329, 354A(2),

363A, 364, 365, 366, 367, 368, 369, 372, 373, 373A, 375(3)(*a*), 375(3)(*b*), 376(3), 376(4)(*a*), 376(4)(*b*), 376A(2), 376A(3), 376G(3), 376G(4), 376G(5), 377A, 379A, 380, 381, 382, 385, 386, 387, 388, 389, 393, 394, 395, 396, 397, 399, 400, 401, 402, 407, 408, 409, 411(2), 412, 413, 414(1), 414(2), 420, 437, 438, 439, 440, 450, 452, 453, 454 (both items), 455, 456, 457 (both items), 458, 458A, 459, 460, 467, 468, 473, 473A, 473B, 474 (both items), 475, 476, 477, 477A, 489B, 489C, 489D and 496 of the Penal Code;

(iv) the second item relating to section 130B of the Penal Code (relating to the offence bearing the description "While committing or attempting to commit piracy, the person commits murder or attempts to commit murder, or does any act which is likely to endanger the life of another person" under the second column);

(v) the second item relating to section 130E of the Penal Code (relating to the offence bearing the description "Genocide in any other case" under the second column);

(vi) the first item relating to section 153 of the Penal Code (relating to the offence bearing the description "Wantonly giving provocation with intent to cause riot, if rioting is committed" under the second column);

(vii) the second item relating to section 193 of the Penal Code (relating to the offence bearing the description "Giving or fabricating false evidence in any other case" under the second column);

(viii) the second item relating to section 194 of the Penal Code (relating to the offence bearing the description "If innocent person is thereby convicted and executed" under the second column);

(ix) the second item relating to section 201 of the Penal Code (relating to the offence bearing the description

"If punishable with imprisonment for life or imprisonment for 20 years" under the second column);

(x) the second item relating to section 222 of the Penal Code (relating to the offence bearing the description "If under sentence of imprisonment for 20 years or upwards" under the second column);

(xi) the first item relating to section 225 of the Penal Code (relating to the offence bearing the description "Resistance or obstruction to the lawful apprehension of another person, or rescuing him from lawful custody" under the second column);

(xii) the third item relating to section 225 of the Penal Code (relating to the offence bearing the description "If charged with a capital offence" under the second column);

(xiii) the fourth item relating to section 225 of the Penal Code (relating to the offence bearing the description "If the person is sentenced to imprisonment for 10 years or upwards" under the second column);

(xiv) the fifth item relating to section 225 of the Penal Code (relating to the offence bearing the description "If under sentence of death" under the second column);

(xv) the second item relating to section 225A of the Penal Code (relating to the offence bearing the description "Negligent omission to do same" under the second column);

(xvi) the second item relating to section 377B(4) of the Penal Code (relating to the offence bearing the description "Causing another person to be sexually penetrated by a living animal" under the second column);

(xvii) the second item relating to section 392 of the Penal Code (relating to the offence bearing the description

"If committed after 7 p.m. and before 7 a.m." under the second column);

(xviii) the item under the heading "OFFENCES AGAINST LAWS OTHER THAN THE PENAL CODE" relating to the offence bearing the description "If punishable with imprisonment for 3 years or upwards but less than 7 years" under the second column;

(*b*) by deleting the word "Ditto" under the fifth column in the following items and substituting the word "Bailable":

(i) the items relating to sections 136, 137, 138, 140, 154, 155, 156, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 173 (both items), 174 (both items), 175, 176 (both items), 177 (both items), 178, 179, 180, 181, 182, 183, 184, 185, 186, 187 (both items), 188 (both items), 189, 190, 225C, 256, 257, 258, 259, 260, 261, 262, 263, 265, 266, 267, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 296, 297, 298, 298A, 304A(*b*), 318, 324, 325, 335, 336(*a*), 336(*b*), 337(*a*), 337(*b*), 338(*a*), 338(*b*), 342, 343, 344, 345, 346, 347, 348, 354(2), 358, 376B(2), 376C(2) (both items), 376F(2), 404 (both items), 418, 419, 422, 423, 424, 427, 428, 430, 431A, 432, 433, 434, 435, 448, 462, 471, 501, 502 and 509 of the Penal Code;

(ii) the second item relating to section 172 of the Penal Code (relating to the offence bearing the description "If summons or notice requires attendance in person, etc., in a court of justice" under the second column);

(iii) the second item relating to section 312 of the Penal Code (relating to the offence bearing the description "If the woman is quick with child" under the second column);

(iv) the second item relating to section 506 of the Penal Code (relating to the offence bearing the description

"If threat is to cause death or grievous hurt, etc." under the second column);

(v) the item under the heading "OFFENCES AGAINST LAWS OTHER THAN THE PENAL CODE" relating to the offence bearing the description "If punishable with fine only" under the second column; and

(*c*) by deleting the word "Bailable" under the fifth column in the following items and substituting the words "Not bailable":

(i) the first item relating to section 193 of the Penal Code (relating to the offence bearing the description "Giving or fabricating false evidence in a judicial proceeding" under the second column);

(ii) the items relating to sections 196 and 228 of the Penal Code;

(iii) the third item relating to section 201 of the Penal Code (relating to the offence bearing the description "If punishable with imprisonment for less than 20 years" under the second column);

(iv) the third item relating to section 222 of the Penal Code (relating to the offence bearing the description "If under sentence of imprisonment for less than 20 years, or lawfully committed to custody" under the second column);

(v) the first item relating to section 225A of the Penal Code (relating to the offence bearing the description "Intentional omission to apprehend on the part of a public servant bound by law to apprehend any person in a case not provided for by section 221, 222 or 223" under the second column).

Amendment of Second Schedule

119. The Second Schedule to the Code is amended —

(*a*) by deleting the Schedule reference and substituting the following Schedule reference:

"Sections 159(1) and 211A(1)(*b*)";

(*b*) by inserting, immediately after item 3, the following item:

"3A. Casino Control Act (Cap. 33A)";

(*c*) by inserting, immediately after item 12, the following item:

"12A. Moneylenders Act (Cap. 188)";

(*d*) by inserting, immediately after item 16, the following items:

"16A. Prevention of Corruption Act (Cap. 241)

16B. Prevention of Human Trafficking Act 2014 (Act 45 of 2014)"; and

(*e*) by inserting, immediately after item 20, the following item:

"20A. Remote Gambling Act 2014 (Act 34 of 2014)".

Repeal and re-enactment of Third Schedule

120.—(1) The Third Schedule to the Code is repealed.

(2) The Code is amended by inserting, immediately after the Second Schedule, the following Schedule:

"THIRD SCHEDULE

Sections 22(5) and 23(3B)

OFFENCES FOR WHICH STATEMENTS MUST BE RECORDED IN FORM OF AUDIOVISUAL RECORDING

1. Section 375(1)(*a*) of the Penal Code (Cap. 224).".

New Sixth Schedule

121. The Code is amended by inserting, immediately after the Fifth Schedule, the following Schedule:

"SIXTH SCHEDULE

Section 149A

OFFENCES IN RESPECT OF WHICH
DEFERRED PROSECUTION AGREEMENTS
MAY BE ENTERED INTO

1. Any offence under section 39, 43, 44, 45, 46, 47, 48, 48C, 48E, 48F, 48I, 48J or 48K of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A).
2. Any offence under section 59, read with section 39, 43, 44, 45, 46, 47, 48, 48C, 48E, 48F, 48I, 48J or 48K, of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act.
3. Any offence under section 27B(2) of the Monetary Authority of Singapore Act (Cap. 186).
4. Any offence under section 411 or 477A of the Penal Code (Cap. 224).
5. Any offence under section 5, 6, 10 or 12 of the Prevention of Corruption Act (Cap. 241).
6. Any offence under section 82, 204, 212 or 221 of the Securities and Futures Act (Cap. 289).
7. Any offence under section 331, read with section 82, 204, 212 or 221, of the Securities and Futures Act.
8. Any offence of attempting to commit, abetting the commission of, or being a party to a criminal conspiracy to commit, any other offence specified in this Schedule.".

Miscellaneous amendments

122. The Code is amended —

(*a*) by deleting the words "punishable with a fine only" in sections 8(1) and 11(10) and substituting in each case the words "a fine-only offence";

(*b*) by deleting the words "an offence punishable with a fine only" in section 118 and substituting the words "a fine-only offence"; and

(*c*) by deleting the section heading of section 118 and substituting the following section heading:

"**Service for fine-only offence**".

Amendment of Interpretation Act

123. Section 2(1) of the Interpretation Act (Cap. 1, 2002 Ed.) is amended by inserting, immediately after the definition of "court", the following definition:

" "Criminal Procedure Rules" —

(*a*) means the Criminal Procedure Rules made under the Criminal Procedure Code (Cap. 68) and any other written law by the Criminal Procedure Rules Committee constituted under section 428A of that Code; and

(*b*) includes any subsidiary legislation deemed under section 428A(15) to be Criminal Procedure Rules;".

Amendment of Evidence Act

124. Section 32(7) of the Evidence Act (Cap. 97, 1997 Ed.) is amended by inserting, immediately after the words "Division 2 of Part X of the Criminal Procedure Code 2010", the words "as in force immediately before the date of commencement of section 47 of the Criminal Justice Reform Act 2018".

Amendment of Singapore Armed Forces Act

125.—(1) Section 94 of the Singapore Armed Forces Act (Cap. 295, 2000 Ed.) is amended —

(*a*) by deleting the words "Criminal Procedure Code 2010" in subsection (1) and substituting the words "Criminal Procedure Code (Cap. 68) (as in force immediately before the date of commencement of section 125 of the Criminal Justice Reform Act 2018)"; and

(*b*) by deleting "2010" in subsections (2), (3) and (4) and substituting in each case the words "(as in force immediately before the date of commencement of section 125 of the Criminal Justice Reform Act 2018)".

(2) The Singapore Armed Forces Act is amended by deleting the words "Criminal Procedure Code 2010" in sections 201C(9)(*a*) and 201G(1) and substituting in each case the words "Criminal Procedure Code (Cap. 68)".

Amendment of State Courts Act

126. Section 7 of the State Courts Act (Cap. 321, 2007 Ed.) is amended —

(*a*) by deleting the words "any proceedings" in subsection (2) and substituting the words "any matter or proceeding";

(*b*) by inserting, immediately after the word "justice," in subsection (2), the words "public safety,"; and

(*c*) by inserting, immediately after subsection (4), the following subsections:

"(5) A State Court that hears the whole or any part of any matter or proceeding in camera may, in its discretion, permit any of the following individuals to be present in the courtroom while that matter or proceeding is heard in camera:

(*a*) any journalist who reports news for a newspaper or a broadcasting service;

(*b*) any individual whom the court determines has a sufficient interest in that matter or proceeding;

(*c*) any other individual that the court specifies in any particular case.

(6) For the purposes of subsection (2), the matters that a State Court may consider, when deciding whether it is expedient in the interests of justice, public safety, public security or propriety, or for other sufficient reason, to hear the whole or any part of any matter or proceeding in camera, include the following matters:

(*a*) whether the defence of any accused person in that matter or proceeding will be prejudiced by the presence of any member of the public in the courtroom;

(*b*) whether any accused person or witness in that matter or proceeding has any legitimate interest in privacy that needs to be protected;

(*c*) whether the object of that matter or proceeding will be defeated by publicity if that matter or proceeding is heard in open court;

(*d*) whether any accused person or witness in that matter or proceeding has any legitimate interest in protecting the confidentiality of any information that may be disclosed during the hearing of that matter or proceeding;

(*e*) whether any information that may be disclosed during the hearing of that matter or proceeding will be prejudicial to the interests of Singapore.

(7) In this section —

"broadcasting service" has the same meaning as in section 2(1) of the Broadcasting Act (Cap. 28);

"newspaper" has the same meaning as in section 2(1) of the Newspaper and Printing Presses Act (Cap. 206).".

Amendment of Supreme Court of Judicature Act

127.—(1) Section 8 of the Supreme Court of Judicature Act (Cap. 322, 2007 Ed.) is amended —

(*a*) by deleting the word "proceedings" in subsection (2) and substituting the word "proceeding"; and

(*b*) by inserting, immediately after subsection (4), the following subsections:

"(5) A court that hears the whole or any part of any matter or proceeding in camera may, in its discretion, permit any of the following individuals to be present in the courtroom while that matter or proceeding is heard in camera:

(*a*) any journalist who reports news for a newspaper or a broadcasting service;

(*b*) any individual whom the court determines has a sufficient interest in that matter or proceeding;

(*c*) any other individual that the court specifies in any particular case.

(6) For the purposes of subsection (2), the matters that the court may consider, when deciding whether it is expedient in the interests of justice, public safety, public security or propriety, or for other sufficient reason, to hear the whole or any part of any matter or proceeding in camera, include the following matters:

(*a*) whether the defence of any accused person in that matter or proceeding will be prejudiced by the presence of any member of the public in the courtroom;

(*b*) whether any accused person or witness in that matter or proceeding has any legitimate interest in privacy that needs to be protected;

(*c*) whether the object of that matter or proceeding will be defeated by publicity if that matter or proceeding is heard in open court;

(*d*) whether any accused person or witness in that matter or proceeding has any

legitimate interest in protecting the confidentiality of any information that may be disclosed during the hearing of that matter or proceeding;

(*e*) whether any information that may be disclosed during the hearing of that matter or proceeding will be prejudicial to the interests of Singapore.

(7) In this section —

"broadcasting service" has the same meaning as in section 2(1) of the Broadcasting Act (Cap. 28);

"newspaper" has the same meaning as in section 2(1) of the Newspaper and Printing Presses Act (Cap. 206).".

(2) Section 29A of the Supreme Court of Judicature Act is amended by deleting subsections (1) and (2) and substituting the following subsections:

"(1) The civil jurisdiction of the Court of Appeal consists of the following matters, subject to the provisions of this Act or any other written law regulating the terms and conditions upon which those matters may be brought:

(*a*) any appeal from any judgment or order of the High Court in any civil cause or matter, whether made in the exercise of its original civil jurisdiction or made in the exercise of its appellate civil jurisdiction;

(*b*) any application (whether made to the Court of Appeal or to the High Court) to which either or both of the following apply:

(i) any common question of law or fact arises in both that application and any matter mentioned in subsection (2);

(ii) any relief claimed in that application —

(A) may affect any matter mentioned in subsection (2) in any way; or

(B) may affect the outcome of any matter mentioned in subsection (2).

(2) The criminal jurisdiction of the Court of Appeal consists of the following matters, subject to the provisions of this Act or any other written law regulating the terms and conditions upon which those matters may be brought:

(*a*) any appeal against any decision made by the High Court in the exercise of its original criminal jurisdiction;

(*b*) any petition for confirmation under Division 1A of Part XX of the Criminal Procedure Code (Cap. 68);

(*c*) any review of a decision of the Court of Appeal, or a decision of the High Court, under Division 1B of Part XX of the Criminal Procedure Code;

(*d*) any case stated to the Court of Appeal under section 395 or 396 of the Criminal Procedure Code;

(*e*) any reference to the Court of Appeal under section 397 of the Criminal Procedure Code;

(*f*) any motion to the Court of Appeal under Division 5 of Part XX of the Criminal Procedure Code.".

(3) Section 30 of the Supreme Court of Judicature Act is amended —

(*a*) by inserting, immediately after subsection (2), the following subsection:

"(2A) Despite subsection (1), the Court of Appeal in the exercise of its criminal jurisdiction is, if it consists of one Judge of Appeal, duly constituted for the purpose of hearing and determining an application under section 394H of the Criminal Procedure Code (Cap. 68) for leave to apply to the Court of Appeal to

review an earlier decision of the Court of Appeal."; and

(*b*) by deleting paragraph (*c*) of subsection (3) and substituting the following paragraph:

"(*c*) the consideration of any of the following matters:

(i) any petition for confirmation under Division 1A of Part XX of the Criminal Procedure Code lodged in respect of a sentence of death passed by him on an accused;

(ii) any case stated by him under section 395 of the Criminal Procedure Code;

(iii) any reference under section 397 of the Criminal Procedure Code of a question of law of public interest which has arisen in a criminal matter determined by him.".

Saving and transitional provisions

128.—(1) Despite sections 2(*f*), 4, 31, 34, 45, 46, 47, 48, 63, 76, 82, 83, 84, 85, 86, 115(*a*) and 120(1) (called in this subsection the relevant provisions of this Act), the following provisions of the Code as in force immediately before the date of commencement of the relevant provisions of this Act continue to apply to an accused in relation to an offence to be tried in the High Court, if the accused was charged with that offence before the date of commencement of the relevant provisions of this Act:

(*a*) the definition of "proceeding" in section 2(1) of the Code;

(*b*) sections 7(1)(*b*), 122(3), 148(3), 172, 175, 210, 240(1) and (2), 264(1), 287, 291(1), 292, 293(2), 297 and 426(2) of the Code;

(*c*) Divisions 2, 3 and 4 of Part X of the Code;

(*d*) the Third Schedule to the Code.

(2) Section 49 does not apply to an accused in relation to an offence to be tried in the High Court, if the accused was charged with that offence before the date of commencement of that section.

(3) Subject to subsections (4) and (5), sections 68 to 73 apply, on and after the date of commencement of those sections —

(*a*) to every person released by the court under section 249(1) of the Code as in force immediately before that date — as if that person had been released pursuant to an order of the court under section 249(2) of the Code as in force on that date;

(*b*) to every person who, immediately before that date, continues to be confined under section 249(2) of the Code as in force immediately before that date — as if that person had been confined pursuant to —

(i) an order of the Minister under section 249(9)(*b*) of the Code as in force on that date, if any offence that the person is charged with is a capital or life imprisonment offence; or

(ii) an order of the Minister under section 249(9)(*c*)(i) of the Code as in force on that date, if no offence that the person is charged with is a capital or life imprisonment offence;

(*c*) to every person who, immediately before that date, continues to be confined under section 252 of the Code as in force immediately before that date — as if that person had been confined pursuant to an order of the Minister under section 252(6)(*a*) of the Code as in force on that date;

(*d*) to every person who, after being confined under section 249(2) of the Code as in force immediately before that date, was delivered, before that date, to the care and custody of a relative or friend of the person under section 255 of the Code as in force immediately before that date, and who continues to be under such care and custody immediately before that date — as if that person had been

released pursuant to an order of the Minister under section 255(1)(*b*) of the Code as in force on that date;

(*e*) to every person who, after being confined under section 252 of the Code as in force immediately before that date, was delivered, before that date, to the care and custody of a relative or friend of the person under section 255 of the Code as in force immediately before that date, and who continues to be under such care and custody immediately before that date — as if that person had been released pursuant to an order of the Minister under section 255(8)(*b*) of the Code as in force on that date;

(*f*) to every person who, after being confined under section 249(2) of the Code as in force immediately before that date, was detained in custody or in prison, or sent to a psychiatric institution, pursuant to an order of the Minister under section 256 of the Code as in force immediately before that date, and who continues to be so detained immediately before that date — as if that person had been confined in a psychiatric institution, a prison or any other suitable place of safe custody pursuant to —

(i) an order of the Minister under section 249(9)(*b*) of the Code as in force on that date, if any offence that the person is charged with is a capital or life imprisonment offence; or

(ii) an order of the Minister under section 249(9)(*c*)(i) of the Code as in force on that date, if no offence that the person is charged with is a capital or life imprisonment offence; and

(*g*) to every person who, after being confined under section 252 of the Code as in force immediately before that date, was detained in custody or in prison, or sent to a psychiatric institution, pursuant to an order of the Minister under section 256 of the Code as in force immediately before that date, and who continues to be so detained immediately before that date — as if that person had been confined in a psychiatric institution, a prison or any other

suitable place of safe custody pursuant to an order of the Minister under section 252(6)(*a*) of the Code as in force on that date.

(4) Where section 68 applies, on or after the date of commencement of that section, to a person mentioned in subsection (3)(*b*) or (*f*), as if that person had been confined pursuant to an order of the Minister under section 249(9)(*c*)(i) of the Code as in force on that date —

(*a*) every order made in respect of that person by the Minister, under section 249(2) or 256 of the Code as in force immediately before that date, is deemed to be an order of the Minister made in respect of that person under section 249(9)(*c*)(i) of the Code as in force on that date;

(*b*) the Minister must, within a reasonable time, apply to the court for a determination of the notional imprisonment period that applies, under section 249(9)(*c*)(i) of the Code as in force on that date, to that person;

(*c*) the court must, within a reasonable time —

(i) determine that notional imprisonment period in accordance with section 249(10) of the Code as in force on that date;

(ii) determine whether that person has already been confined, pursuant to the order or orders made in respect of that person by the Minister under section 249(2) or 256 of the Code as in force immediately before that date, for a period that is longer than that notional imprisonment period; and

(iii) inform the Minister of the determinations under sub-paragraphs (i) and (ii); and

(*d*) if the court determines that that person has already been confined for a period that is longer than that notional imprisonment period, the following apply:

(i) the court may —

(A) after due inquiry, send that person to a designated medical practitioner at a psychiatric institution for treatment;

(B) remand that person in custody in accordance with section 238 of the Code; or

(C) release that person on bail, on personal bond, or on bail and on personal bond, under section 92 or 93 of the Code;

(ii) where sub-paragraph (i)(A) applies, that person may be dealt with in accordance with the provisions of the Mental Health (Care and Treatment) Act (Cap. 178A);

(iii) that person is deemed to be lawfully confined, under an order made in respect of that person by the Minister under section 249(2) or 256 of the Code as in force immediately before that date, until the expiration of the day on which the court makes its decision under sub-paragraph (i).

(5) Where section 69 applies, on or after the date of commencement of that section, to a person mentioned in subsection (3)(*c*) or (*g*), as if that person had been confined pursuant to an order of the Minister under section 252(6)(*a*) of the Code as in force on that date —

(*a*) every order made in respect of that person by the Minister, under section 252(2) or 256 of the Code as in force immediately before that date, is deemed to be an order of the Minister made in respect of that person under section 252(6)(*a*) of the Code as in force on that date;

(*b*) in any case where the total period of confinement of that person, under every order made in respect of that person by the Minister under section 252(2) or 256 of the Code as in force immediately before that date, exceeds 12 months, but does not exceed the notional imprisonment period, under section 252(8) of the Code as in force on that date, that applies to that person —

(i) the Minister must, within a reasonable time, apply to the court, under section 252(7)(*a*) of the Code as in force on that date, for the further confinement of that person; and

(ii) that person is deemed to be lawfully confined, under an order made in respect of that person by the Minister under section 252(2) or 256 of the Code as in force immediately before that date, until the expiration of the day on which the court decides the Minister's application;

(*c*) in any case where the total period of confinement of that person, under every order made in respect of that person by the Minister under section 252(2) or 256 of the Code as in force immediately before that date, exceeds the notional imprisonment period, under section 252(8) of the Code as in force on that date, that applies to that person, the following apply:

(i) the person must be produced, within a reasonable time, before a court;

(ii) the court may —

(A) after due inquiry, send that person to a designated medical practitioner at a psychiatric institution for treatment; or

(B) direct that that person be released;

(iii) where sub-paragraph (ii)(A) applies, that person may be dealt with in accordance with the provisions of the Mental Health (Care and Treatment) Act;

(iv) that person is deemed to be lawfully confined, under an order made in respect of that person by the Minister under section 252(2) or 256 of the Code as in force immediately before that date, until the expiration of the day on which the court makes its decision under sub-paragraph (ii).

(6) Paragraph (*a*) of section 92 does not apply to any offence committed before the date of commencement of that paragraph.

(7) 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.

(8) In this section, "capital or life imprisonment offence" means an offence that —

(*a*) is punishable with death or imprisonment for life; and

(*b*) is not —

(i) also punishable with an alternative punishment other than death or imprisonment for life; and

(ii) to be tried before a District Court or a Magistrate's Court.