

Part I (continued)

General (continued)

Application to territories

8 (1) The provisions of this Act apply throughout Canada except

- (a) in Yukon, in so far as they are inconsistent with the *Yukon Act*;
- (b) in the Northwest Territories, in so far as they are inconsistent with the *Northwest Territories Act*; and
- (c) in Nunavut, in so far as they are inconsistent with the *Nunavut Act*.

Application of criminal law of England

(2) The criminal law of England that was in force in a province immediately before April 1, 1955 continues in force in the province except as altered, varied, modified or affected by this Act or any other Act of the Parliament of Canada.

Common law principles continued

(3) Every rule and principle of the common law that renders any circumstance a justification or excuse for an act or a defence to a charge continues in force and applies in respect of proceedings for an offence under this Act or any other Act of Parliament except in so far as they are altered by or are inconsistent with this Act or any other Act of Parliament.

R.S., 1985, c. C-46, s. 8; 1993, c. 28, s. 78; 2002, c. 7, s. 138.

Criminal offences to be under law of Canada

9 Notwithstanding anything in this Act or any other Act, no person shall be convicted or discharged under section 730

- (a) of an offence at common law,
- (b) of an offence under an Act of the Parliament of England, or of Great Britain, or of the United Kingdom of Great Britain and Ireland, or
- (c) of an offence under an Act or ordinance in force in any province, territory or place before that province, territory or place became a province of Canada,

but nothing in this section affects the power, jurisdiction or authority that a court, judge, justice or provincial court judge had, immediately before April 1, 1955, to impose punishment for contempt of court.

R.S., 1985, c. C-46, s. 9; R.S., 1985, c. 27 (1st Supp.), s. 6, c. 1 (4th Supp.), s. 18(F); 1995, c. 22, s. 10.

Appeal

10 (1) Where a court, judge, justice or provincial court judge summarily convicts a person for a contempt of court committed in the face of the court and imposes punishment in respect thereof, that person may appeal

- (a) from the conviction; or
- (b) against the punishment imposed.

Idem

(2) Where a court or judge summarily convicts a person for a contempt of court not committed in the face of the court and punishment is imposed in respect thereof, that person may appeal

- (a) from the conviction; or
- (b) against the punishment imposed.

Part XXI applies

(3) An appeal under this section lies to the court of appeal of the province in which the proceedings take place, and, for the purposes of this section, the provisions of Part XXI apply, with such modifications as the circumstances require.

R.S., 1985, c. C-46, s. 10; R.S., 1985, c. 27 (1st Supp.), s. 203.

Civil remedy not suspended

11 No civil remedy for an act or omission is suspended or affected by reason that the act or omission is a criminal offence.

R.S., c. C-34, s. 10.

Offence punishable under more than one Act

12 Where an act or omission is an offence under more than one Act of Parliament, whether punishable by indictment or on summary conviction, a person who does the act or makes the omission is, unless a contrary intention appears, subject to proceedings under any of those Acts, but is not liable to be punished more than once for the same offence.

R.S., c. C-34, s. 11.

Child under twelve

13 No person shall be convicted of an offence in respect of an act or omission on his part while that person was under the age of twelve years.

R.S., c. C-34, s. 12; 1980-81-82-83, c. 110, s. 72.

Consent to death

14 No person is entitled to consent to have death inflicted on them, and such consent does not affect the criminal responsibility of any person who inflicts death on the person who gave consent.

R.S., 1985, c. C-46, s. 14; 2016, c. 3, s. 1.

Obedience to *de facto* law

15 No person shall be convicted of an offence in respect of an act or omission in obedience to the laws for the time being made and enforced by persons in *de facto* possession of the sovereign power in and over the place where the act or omission occurs.

R.S., c. C-34, s. 15.

Defence of mental disorder

16 (1) No person is criminally responsible for an act committed or an omission made while suffering from a mental disorder that rendered the person incapable of appreciating the nature and quality of the act or omission or of knowing that it was wrong.

Presumption

(2) Every person is presumed not to suffer from a mental disorder so as to be exempt from criminal responsibility by virtue of subsection (1), until the contrary is proved on the balance of probabilities.

Burden of proof

(3) The burden of proof that an accused was suffering from a mental disorder so as to be exempt from criminal responsibility is on the party that raises the issue.

R.S., 1985, c. C-46, s. 16; R.S., 1985, c. 27 (1st Supp.), s. 185(F); 1991, c. 43, s. 2.

Compulsion by threats

17 A person who commits an offence under compulsion by threats of immediate death or bodily harm from a person who is present when the offence is committed is excused for committing the offence if the person believes that the threats will be carried out and if the person is not a party to a conspiracy or association whereby the person is subject to compulsion, but this section does not apply where the offence that is committed is high treason or treason, murder, piracy, attempted murder, sexual assault, sexual assault with a weapon, threats to a third party or causing bodily harm, aggravated sexual assault, forcible abduction, hostage taking, robbery, assault with a weapon or causing bodily harm, aggravated assault, unlawfully causing bodily harm, arson or an offence under sections 280 to 283 (abduction and detention of young persons).

R.S., 1985, c. C-46, s. 17; R.S., 1985, c. 27 (1st Supp.), s. 40.

Compulsion of spouse

18 No presumption arises that a married person who commits an offence does so under compulsion by reason only that the offence is committed in the presence of the spouse of that married person.

R.S., c. C-34, s. 18; 1980-81-82-83, c. 125, s. 4.

Ignorance of the law

19 Ignorance of the law by a person who commits an offence is not an excuse for committing that offence.

R.S., c. C-34, s. 19.

Certain acts on holidays valid

20 A warrant, summons, appearance notice, undertaking, release order or recognizance that is authorized by this Act may be executed, issued, given or entered into, as the case may be, on a holiday.

R.S., 1985, c. C-46, s. 20; 2019, c. 25, s. 5.

Parties to Offences

Parties to offence

21 (1) Every one is a party to an offence who

- (a) actually commits it;
- (b) does or omits to do anything for the purpose of aiding any person to commit it; or
- (c) abets any person in committing it.

Common intention

(2) Where two or more persons form an intention in common to carry out an unlawful purpose and to assist each other therein and any one of them, in carrying out the common purpose, commits an offence, each of them who knew or ought to have known that the commission of the offence would be a probable consequence of carrying out the common purpose is a party to that offence.

R.S., c. C-34, s. 21.

Person counselling offence

22 (1) Where a person counsels another person to be a party to an offence and that other person is afterwards a party to that offence, the person who counselled is a party to that offence, notwithstanding that the offence was committed in a way different from that which was counselled.

Idem

(2) Every one who counsels another person to be a party to an offence is a party to every offence that the other commits in consequence of the counselling that the person who counselled knew or ought to have known was likely to be committed in consequence of the counselling.

Definition of *counsel*

(3) For the purposes of this Act, ***counsel*** includes procure, solicit or incite.

R.S., 1985, c. C-46, s. 22; R.S., 1985, c. 27 (1st Supp.), s. 7.

Offences of negligence — organizations

22.1 In respect of an offence that requires the prosecution to prove negligence, an organization is a party to the offence if

(a) acting within the scope of their authority

(i) one of its representatives is a party to the offence, or

(ii) two or more of its representatives engage in conduct, whether by act or omission, such that, if it had been the conduct of only one representative, that representative would have been a party to the offence; and

(b) the senior officer who is responsible for the aspect of the organization's activities that is relevant to the offence departs — or the senior officers, collectively, depart — markedly from the standard of care that, in the circumstances, could reasonably be expected to prevent a representative of the organization from being a party to the offence.

2003, c. 21, s. 2.

Other offences — organizations

22.2 In respect of an offence that requires the prosecution to prove fault — other than negligence — an organization is a party to the offence if, with the intent at least in part to benefit the organization, one of its senior officers

(a) acting within the scope of their authority, is a party to the offence;

(b) having the mental state required to be a party to the offence and acting within the scope of their authority, directs the work of other representatives of the organization so that they do the act or make the omission specified in the offence; or

(c) knowing that a representative of the organization is or is about to be a party to the offence, does not take all reasonable measures to stop them from being a party to the offence.

2003, c. 21, s. 2.

Accessory after the fact

23 (1) An accessory after the fact to an offence is one who, knowing that a person has been a party to the offence, receives, comforts or assists that person for the purpose of enabling that person to escape.

(2) [Repealed, 2000, c. 12, s. 92]

R.S., 1985, c. C-46, s. 23; 2000, c. 12, s. 92.

Where one party cannot be convicted

23.1 For greater certainty, sections 21 to 23 apply in respect of an accused notwithstanding the fact that the person whom the accused aids or abets, counsels or procures or receives, comforts or assists cannot be convicted of the offence.

R.S., 1985, c. 24 (2nd Supp.), s. 45.

Attempts

24 (1) Every one who, having an intent to commit an offence, does or omits to do anything for the purpose of carrying out the intention is guilty of an attempt to commit the offence whether or not it was possible under the circumstances to commit the offence.

Question of law

(2) The question whether an act or omission by a person who has an intent to commit an offence is or is not mere preparation to commit the offence, and too remote to constitute an attempt to commit the offence, is a question of law.

R.S., c. C-34, s. 24.

Protection of Persons Administering and Enforcing the Law

Protection of persons acting under authority

25 (1) Every one who is required or authorized by law to do anything in the administration or enforcement of the law

- (a)** as a private person,
- (b)** as a peace officer or public officer,
- (c)** in aid of a peace officer or public officer, or
- (d)** by virtue of his office,

is, if he acts on reasonable grounds, justified in doing what he is required or authorized to do and in using as much force as is necessary for that purpose.

Idem

(2) Where a person is required or authorized by law to execute a process or to carry out a sentence, that person or any person who assists him is, if that person acts in good faith, justified in executing the process or in carrying out the sentence notwithstanding that the process or sentence is defective or that it was issued or imposed without jurisdiction or in excess of jurisdiction.

When not protected

(3) Subject to subsections (4) and (5), a person is not justified for the purposes of subsection (1) in using force that is intended or is likely to cause death or grievous bodily harm unless the person believes on reasonable grounds that it is necessary for the self-preservation of the person or the preservation of any one under that person's protection from death or grievous bodily harm.

When protected

(4) A peace officer, and every person lawfully assisting the peace officer, is justified in using force that is intended or is likely to cause death or grievous bodily harm to a person to be arrested, if

(a) the peace officer is proceeding lawfully to arrest, with or without warrant, the person to be arrested;

(b) the offence for which the person is to be arrested is one for which that person may be arrested without warrant;

(c) the person to be arrested takes flight to avoid arrest;

(d) the peace officer or other person using the force believes on reasonable grounds that the force is necessary for the purpose of protecting the peace officer, the person lawfully assisting the peace officer or any other person from imminent or future death or grievous bodily harm; and

(e) the flight cannot be prevented by reasonable means in a less violent manner.

Power in case of escape from penitentiary

(5) A peace officer is justified in using force that is intended or is likely to cause death or grievous bodily harm against an inmate who is escaping from a penitentiary within the meaning of subsection 2(1) of the *Corrections and Conditional Release Act*, if

(a) the peace officer believes on reasonable grounds that any of the inmates of the penitentiary poses a threat of death or grievous bodily harm to the peace officer or any other person; and

(b) the escape cannot be prevented by reasonable means in a less violent manner.

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