

CHAPTER 17

THE CORPORAL PUNISHMENT ACT

[PRINCIPAL LEGISLATION]

ARRANGEMENT OF SECTIONS

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SCHEDULE



CHAPTER 17

THE CORPORAL PUNISHMENT ACT

An Act to regulate the infliction of corporal punishment.

[1st July, 1930]

Ords. Nos.	Acts Nos.
14 of 1930	55 of 1963
22 of 1932	11 of 1970
26 of 1935	12 of 1998
48 of 1954	

Short title	1. This Act may be cited as the Corporal Punishment Act.
Interpretation	2. In this Act, unless the context otherwise requires- “adult” means a person of the age of sixteen years and over; “corporal punishment” means- (a) in the case of an adult, whipping; and (b) in the case of a juvenile, caning; “court” includes any person authorised by law to award corporal punishment; “juvenile” means a person under the age of sixteen years.
Restriction on award of corporal punishment to adults Ord. No. 48 of 1954 s. 2	3. Notwithstanding anything to the contrary contained in any law other than this Act, corporal punishment shall not be awarded to an adult on conviction by any court unless the offence for which he is convicted is one of the offences mentioned in the Schedule to this Act.
All sentences of corporal punishment to be carried out under provisions of this Act Act No. 55 of 1963 6 th Sch.	4. Where under this Act or under any law referred to in Part II of the Schedule to this Act it is provided that any person shall be liable to undergo corporal punishment, such punishment shall, if awarded, be in accordance with the provisions of this Act.

- Liability of adults to corporal punishment
Ord. No. 48 of 1954 s. 4
- 5.** An adult convicted of an offence under Part I of the Schedule to this Act shall be liable to corporal punishment in lieu of or in addition to any other punishment to which he may be liable for of the offence.
- Liability of juveniles to corporal punishment
Cap. 16
- 6.** A juvenile convicted of an offence under the Penal Code, other than an offence punishable with death, or of any offence punishable under any other law with imprisonment shall be liable to corporal punishment in lieu of any other punishment to which he may be liable for the offence.
- Determination of age
- 7.** In determining the age of an offender for the purposes of this Act or any other law under which corporal punishment may be awarded the court may, in the absence of direct evidence of age, adjudge such age according to the appearance of the offender.
- Limitation of power to award corporal punishment
Ord. No. 26 of 1935 s. 2;
Acts Nos. 11 of 1970;
12 of 1998 Sch.
- 8.**—(1) A corporal punishment shall be ordered and administered irrespective whether a person in respect of which the punishment has been ordered has or has not attained the age of forty five.
- (2) A sentence of corporal punishment shall not in any case exceed twenty four strokes in the case of an adult or twelve strokes in the case of a juvenile.
- (3) A sentence of corporal punishment shall not be carried out by installments.
- (4) A sentence of corporal punishment shall not be carried out within fourteen days of the carrying out of any previous sentence of corporal punishment.
- (5) A corporal punishment shall not be inflicted publicly:
Provided that, where the court considers it desirable, this provision shall not apply to the punishment of juveniles.
- (6) An order for the infliction of corporal punishment shall not be made in default of payment of a fine.

Mode of infliction **9.** Corporal punishment shall be inflicted in such mode and on such part of the person and with such instrument as the President may by order direct.

Sentences of corporal punishment non-cumulative **10.** When a person is convicted at one trial of two or more distinct offences, any two or more of which are legally punishable with corporal punishment, only one sentence of corporal punishment may be passed in respect of all the offences.

Where confirmation required, no sentence to be carried out unless confirmed **11.** Where in any law it is provided that a sentence of corporal punishment, if awarded, shall be subject to confirmation, such sentence shall not be carried out unless it has been confirmed.

Number of strokes to be specified **12.**—(1) The court shall, in every sentence in which it awards corporal punishment, specify the number of strokes to be inflicted.

(2) A sentence of corporal punishment when imposed in respect of any offence specified in Part III of the Schedule to this Act shall consist of twelve strokes.

(3) Notwithstanding the provisions of subsection (3) of section 8, a sentence of corporal punishment referred to in subsection (2) shall be carried out in two installments, each consisting of six strokes, the first installment at the commencement of the term of imprisonment and the other immediately before the prisoner is finally released.

Execution of sentence Act No. 11 of 1970 Sch. **13.** A sentence of corporal punishment shall be carried out without unnecessary delay and shall in no case be carried out after the expiration of six months from the passing of the sentence or, if there has been an appeal from the decision of the court which passed the sentence, from the date on which such appeal was disposed of.

Detention pending punishment **14.** An offender sentenced to undergo corporal punishment may be detained in a prison or any other convenient place for such time as may be necessary for carrying the sentence into effect, or for ascertaining whether it should be carried into effect.

Sentence to be carried out in presence of medical Officer
Ord. No. 22 of 1932 s. 2;
Act No. 55 of 1963
6th Sch.

15.—(1) A sentence of corporal punishment shall not be carried out until a medical officer or, if none is available, the highest medically qualified person available other than a medical officer, has, after examination of the offender, certified that he is physically fit to undergo the sentence imposed upon him.

(2) A corporal punishment on an adult shall not be inflicted except in the presence of—

- (a) a medical officer or such other person as is provided for in subsection (1);
- (b) a district magistrate;
- (c) an administrative officer; or
- (d) a prison officer not below the rank of assistant superintendent.

(3) This medical officer or any other person as is mentioned in subsection (1) is of the opinion that the offender is not physically fit to undergo the punishment, or in the course of the execution of the sentence is unfit to continue with the corporal punishment, including the instance where blood appears, he shall direct the corporal punishment to be stopped, in which event such punishment shall be stopped accordingly.

Consideration of suspended sentences

16.—(1) In any case in which a sentence of corporal punishment is wholly or partially prevented from being executed, the offender shall be kept in custody until the court which passed the sentence revises it.

(2) Subject to subsection (1) the court may in its discretion either remit the sentence or sentence the offender in lieu of corporal punishment or in lieu of so much of the sentence of corporal punishment as was not executed, to imprisonment for a term not exceeding three months which may be in addition to any other sentence which may have been passed upon him for the same offence.

(3) This section shall not be deemed to authorise any court to sentence the offender to imprisonment for a term exceeding that to which the accused is liable by law or which the court is competent to impose.

SCHEDULE

(Made under section 3)

PART I

Act No.
12 of 1998 Sch.

	S/N	Offence	Reference
Cap. 16	1.	Acts done with the intention of maiming, causing grievous harm or preventing arrest.	Penal Code, section 222
	2.	Any assault included in Chapter XXIV of the Penal Code of an aggravated nature by reason of the youth, condition or sex of the person upon whom or by reason of the nature of the weapon or the violence with which such assault shall have been committed.	Penal Code Chapter XXIV
Cap. 200	3.	Spent	Spent
Cap. 16	4.	Burglary where, at the time of the commission of the offence, the offender is armed with a dangerous or offensive weapon.	Penal Code, section 294
Cap. 95	5.	Illicit trafficking in drugs but does not include a person convicted for an offence of being in possession of drugs which taking into account the circumstances in which the offence was committed, was not meant for conveyance or commercial purpose.	Drugs Control and Enforcement Act
Cap. 16	6.	Theft, disruption, damage, hindrance or interference with necessary service.	section 326 (6A) of the Penal Code.
Cap. 18	7.	Witchcraft.	Witchcraft Act.

PART II

(Made under section 4)

	S/N	Offence	Reference
Cap. 16	1.	Rape	Penal Code, section 131
	2.	Attempted rape	Penal Code, section 132
	3.	Defilement or attempted defilement of an idiot or imbecile	Penal Code, section 137
	4.	Indecent assault of boy under fourteen	Penal Code, section 156
	5.	Robbery, robbery with violence or armed robbery	Penal Code, section 286
	6.	Attempted robbery, attempted robbery with violence or attempted armed robbery	Penal Code, section 287
	7.	Assault with intent to steal	Penal Code, section 288.

	S/N	Offence	Reference
Cap. 47 Cap. 223	8.	Unlawful possession of munitions or arms of war	National Security Act, Firearms and Ammunition Control Act, section 20 and 22
Cap. 58	9.	Mutiny or incitement to mutiny by a convict	Prisons Act, section 88
Cap. 283 Cap. 282	10.	Unlawful possession of, or unlawfully dealing in trophies or Government trophies; unlawful capture, hunting or trapping of animals in a game reserve, game-controlled area or national park.	Wildlife Conservation Act, sections 86 and 35 of National Parks Act section 25

PART III

(Made under section 12)

1. Robbery and armed robbery.
2. Attempted robbery and attempted armed robbery.
3. Assault with intent to steal.
4. Unlawful possession of, unlawfully dealing in trophies or Government trophies; or unlawfully capturing, hunting or trapping animals in game reserve, game-controlled area or national park.

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