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**CHAPTER 101****CRIMINAL LAW (MEASURES)**

**An Act to make provision for the re-introduction of that form of corporal punishment which was of that description of punishment that was lawful in The Bahamas immediately before 10th July, 1973 as an additional punishment to be inflicted upon certain offenders and to enhance the powers of law enforcement officers.** *12 of 1991*

*[Assent 5th November, 1991]  
[Commencement 11th November, 1991]*

**PART I  
PRELIMINARY**

1. This Act may be cited as the Criminal Law (Measures) Act, 1991. Short title.
2. In this Act — Interpretation.
  - “child” means a person under the age of fourteen years;
  - “court” means the Supreme Court, a Magistrate’s or Juvenile Court presided over by a stipendiary and circuit magistrate and includes any appellate court exercising on appeal the powers of any such lower court;
  - “gazetted police officer” means any police officer of or above the rank of assistant superintendent;
  - “serious offence” means any offence specified in the Second Schedule and which the Governor-General may by Order amend;
  - “young person” means a person who has attained the age of fourteen years and is under the age of eighteen years.

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**PART II**  
**CORPORAL PUNISHMENT**

Power to impose  
corporal  
punishment.  
First Schedule.

**3.** (1) Subject to the provisions of this Act, any offender on being convicted by a court of any of the offences mentioned in the First Schedule may be ordered by the court to undergo corporal punishment in addition to any other punishment to which the offender is liable.

(2) Nothing in subsection (1) shall be construed as having the effect of authorising the infliction of corporal punishment for an offence mentioned in the First Schedule committed prior to the coming into operation of this Act.

(3) The Governor-General may by Order amend the First Schedule.

General rules as  
to corporal  
punishment.

**4.** (1) Whenever an offender is sentenced to undergo corporal punishment, such punishment shall be inflicted privately either by flogging or whipping in accordance with the provisions of this section.

(2) Flogging shall be administered with a cat or rod of a pattern approved by the Governor-General and, when with a cat, on the back of the offender and when with a rod, on his buttocks, and in either case only after an examination by and in the presence of a medical officer.

(3) A sentence of flogging shall be inflicted only on a male adult, and which sentence shall be carried out in the prison in New Providence.

(4) A child or young person shall not be sentenced to flogging, but in lieu thereof he may be sentenced to be whipped. Whipping shall be administered with a light cane of a pattern approved by the Governor-General on the buttocks, by or in the presence of a parent or guardian (if he desires to be present) or by such other person as the court may approve. In New Providence a sentence of whipping shall be administered only after an examination by and in the presence of a medical officer.

(5) Notwithstanding anything to the contrary in subsections (2) and (4) the type of instruments used in The Bahamas prior to 10th July, 1973 for the purpose of administering any sentence of corporal punishment shall be deemed to be the respective instruments approved by the Governor-General under those subsections until otherwise notified by the Governor-General by notice in the *Gazette*.

5. (1) A sentence of corporal punishment shall specify the number of strokes which shall be administered, which in the case of flogging shall not exceed twenty-four and in the case of whipping twelve, and shall specify whether the prisoner shall receive the whole sentence at one time or by instalments, and in the case of instalments, the number of strokes at each instalment.

Number of strokes that may be awarded.

(2) The maximum number of strokes which may be administered at any one time shall be twelve in the case of a flogging and six in the case of a whipping and no person who has been flogged or whipped shall be again flogged or whipped within fourteen days.

(3) Every magistrate's or juvenile court which awards any sentence of corporal punishment shall as soon as possible after the imposition of such sentence report the fact to the Supreme Court.

6. No sentence of flogging or whipping shall be passed upon a female of any age; but in lieu of such sentence, where a female is convicted of an offence for which corporal punishment may be inflicted on a male, the court may sentence her to solitary confinement or to any other such additional punishment as the law for the time being permits to be inflicted on a female for an offence against the rules of the prison in New Providence.

Corporal punishment on females prohibited.

### PART III SEARCH OF VEHICLES

7. (1) This Part of this Act shall have effect in relation to search of vehicles during the conduct of road checks by police officers for the purpose of ascertaining whether a vehicle is carrying —

Exercise of powers of search of vehicles at road checks.

- (a) a person who has committed an offence;
- (b) a person intending to commit an offence; or
- (c) a person who is unlawfully at large.

(2) For the purposes of this Part a road check consists of the exercise in a locality of the power conferred by section 44 of the Police Act in such a way as to stop during the period for which its exercise in that way in the locality continues all vehicles or vehicles selected by any criterion.

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(3) There may only be search of vehicles at a road check pursuant to this Part if a gazetted police officer or any police officer then in charge of a police station authorises the search in writing.

(4) An officer may only authorise a search under subsection (3) —

- (a) for the purpose specified in subsections (1)(a) and (b), if he has reasonable grounds —
  - (i) for believing that the offence is a serious offence and;
  - (ii) for suspecting that the person is, or is about to be, in the locality in which vehicles would be stopped if the search were authorised;
- (b) for the purpose specified in subsection (1)(c), if he had reasonable grounds for suspecting that the person is, or is about to be in that locality.

**8.** (1) An officer giving an authorisation under section 7 shall specify —

- (a) the locality in which vehicles are to be searched;
- (b) a period, not exceeding seven days, during which the search at road checks may continue; and
- (c) may direct that during that period the search of road checks —
  - (i) shall be continuous; or
  - (ii) shall be conducted at specified times.

(2) If it appears to a gazetted police officer that a search of vehicles at a road check ought to continue beyond the period for which it has been authorised he may, from time to time, in writing specify a further period, not exceeding seven days, during which it may continue.

(3) Every written authorisation shall specify —

- (a) the name of the officer giving it;
- (b) the purpose of the search; and
- (c) the locality in which the search of vehicles at a road check is to be carried out.

(4) The duty to specify the purpose under subsection (3) include the duty to specify any relevant serious offence.

Locality, and duration of search to be specified.

**9.** Where a vehicle is stopped in a road check, the person in charge of the vehicle at the time when it is stopped shall be entitled to obtain thereafter a written statement of the purpose of the road check if he applies for such a statement not later than the end of the period of twelve months from the day on which the vehicle was stopped.

Member of public may request information.

**10.** Nothing in this Part affects the exercise by police officers of any power other than that sanctioned by this Part to stop vehicles.

Saving.

**11.** (1) The Minister responsible for National Security shall lay before each House of Parliament an annual report from the Commissioner of Police containing information —

Reports of recorded searches.

(a) about road checks carried out under section 44 of the Police Act during the period to which the report relates; and

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(b) about searches authorised under this Part during that period.

(2) The information about searches shall not include information about specific searches but shall include —

(a) the total number of searches in each month during the period to which the report relates —

- (i) for stolen articles;
- (ii) for offensive weapons; and
- (iii) for other prohibited articles;

(b) the total number of persons arrested in each such month in consequence of searches of each of the descriptions specified in paragraphs (a)(i) to (iii).

(3) The information about road checks shall include information —

(a) about the reason for authorising each road check; and

(b) about the result of each of them.

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**FIRST SCHEDULE**

- Ch. 84. 1. Offences under the following sections of the Penal Code:  
ss. 269 (causing wound); 270 (causing grievous harm); 276 (garrotting); 339(2) robbery being armed with an offensive weapon; 340(4) – (7) (stealing in certain cases on second or subsequent conviction); 362 (housebreaking); and 363 (burglary).
- Ch. 99. 2. Offences under the following sections of the Sexual Offences and Domestic Violence Act 1991:  
ss. 6(1) (rape); 6(2) (attempt or assault with intent to commit rape upon second or subsequent conviction); 10(1) (sexual intercourse with person under fourteen years); 10(2) (attempt to have sexual intercourse with person under fourteen years on second or subsequent conviction); 12(1) (unlawful sexual intercourse with a person suffering from a mental disorder); 12(2) (attempt to have unlawful sexual intercourse with a person suffering from a mental disorder on second or subsequent conviction); 13(1)(a) (act of incest by adult with a minor); 13(2)(a) (attempted act of incest by adult with a minor on second or subsequent conviction); 14(1) (adult unlawful sexual intercourse with dependent child); and 14(2) (adult attempted unlawful sexual intercourse with dependent child on second or subsequent conviction).
- Ch. 211. 3. Offences under the following sections of the Firearms Act:  
ss. 33 (possession of firearms with intent to injure); 34 (use or possession of firearm or imitation firearm in certain cases).

**SECOND SCHEDULE (Sections 2 and 7(4))**

- Ch. 84. 1. Offences under the following sections of the Penal Code:  
ss. 282 (kidnapping); 291 (murder); 293 (manslaughter); 323 and 324 (arson); 326-327 (use of explosive); 339 (robbery); 362 (housebreaking); 363 (burglary); 365 (possession of instrument for burglary); 389 (treason); 443 (resist or prevent the execution of the law); 444 (escape).
- Ch. 99. 2. Offences under the following sections of the Sexual Offences and Domestic Violence Act, 1991:  
ss. 6 (rape); 10 to 14 (sexual intercourse with certain persons); 17 (indecent assault); and 20 to 23 (detention of persons with certain intent and abduction).
- Ch. 211. 3. Offences under the Firearms Act.
- Ch. 215. 4. Offences under the Explosives Act.
- Ch. 228. 5. Offences under section 22 of the Dangerous Drugs Act.