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Swiss Criminal Code

of 21 December 1937 (Status as of 1 January 2012)

Please note:

this translation does not yet include the amendments of 1 January 2013 (AS **2010** 6015)

this translation does not yet include the amendments of 1 January 2013 (AS **2011** 72, 487)

The Federal Assembly the Swiss Confederation,

based on Article 64^{bis} the Federal Constitution^{1,2}

and having considered a Federal Council Dispatch dated 23 July 1918³,

decrees:

Book One:⁴ General Provisions

Part One: Felonies and Misdemeanours

Title One: Scope of Application

Art. 1

1. No penalty without a law

No one may be punished for an act unless it has been expressly declared to be an offence by the law.

Art. 2

2. Commencement of applicability of the Code

¹ This Code applies to any person who commits a felony or misdemeanour following the date on which it comes into force.

² Any person who commits a felony or misdemeanour prior to this Code coming into force is only subject to its terms in the event that the penalty hereunder is reduced than the penalty that would otherwise apply.

AS **54** 757, **57** 1328 and BS **3** 203

¹ [BS **1** 3]. The said provision now corresponds to Art. 123 of the Federal Constitution of 18 April 1999 (SR **101**).

² Amended in accordance with No I 2 of the Federal Act of 8 Oct. 1999 on the Abolition of the Federal Assizes, in force since 1 March 2000 (AS **2000** 505 511; BBI **1999** 7922).

³ BBI **1918** IV 1

⁴ Amended in accordance with No I of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBI **1999** 1979).

3. Territorial scope of application.
Felonies or misdemeanours in Switzerland

Art. 3

¹ Any person who commits a felony or misdemeanour in Switzerland is subject to this Code.

² If the person concerned has served a sentence in full or in part for the offence in another country, the Swiss court must take the sentence served into account in determining the sentence to be imposed.

³ If the person concerned has been prosecuted in a foreign country at the request of the Swiss authorities, then unless the offence involves a gross violation of the principles of the Federal Constitution or the Convention from 4 November 1950⁵ for the protection of Human Rights and Fundamental Freedoms (ECHR), he shall not be prosecuted in Switzerland for the same offence if:

- a. the foreign court has acquitted him and the judgment has taken full legal effect;
- b. the penalty to which he had been sentenced in the foreign country has been served, suspended or has prescribed.

⁴ If the person prosecuted abroad at the request of the Swiss authorities has not served the sentence or has only served it in part, the whole sentence or the remainder shall be served in Switzerland. The court shall decide whether a measure that has not been executed abroad or has only been served in part must be executed or continued in Switzerland.

Art. 4

Felonies or misdemeanours against the state committed abroad

¹ This Code also applies to any person who commits a felony or misdemeanour against the state or its national security (Art. 265–278).

² If the person concerned has been convicted of the offence and has served the sentence in full or in part in another country, the court shall take the sentence served into account in determining the sentence to be imposed.

Art. 5

Offences against minors abroad

¹ This Code also applies to any person who is in Switzerland, is not being extradited and has committed any of the following offences abroad:

- a.⁶ trafficking in human beings (Art. 182), indecent assault (Art. 189), rape (Art. 190), sexual acts with a person incapable

⁵ SR 0.101

⁶ Amended in accordance with Art. 2 No 1 of the Federal Decree of 24 March 2006 on the Approval and Implementation of the Optional Protocol of 25 May 2000 to the Convention on the Rights of the Child, on the Sale of Children, Child Prostitution and Child Pornography, in force since 1 Dec. 2006 (AS 2006 5437 5440; BBl 2005 2807).

of proper judgment or resistance (Art. 191) or encouraging prostitution (Art. 195) if the victim was less than 18 years of age;

- b. sexual acts with children (Art. 187) if the victim was less than 14 years of age;
- c. aggravated pornography (Art. 197 no. 3) if the articles or representations depict sexual acts with children.

² Unless the offence involves a gross violation of the principles of the Federal Constitution and the ECHR⁷, the person concerned shall not be liable to further prosecution in Switzerland for the offence if:

- a. he has been acquitted of the offence abroad in a legally binding judgment;
- b. the sentence that was imposed abroad has been served, waived, or has prescribed.

³ If the person concerned has been convicted of the offence abroad and if the sentence imposed abroad has been partly served, the court shall take the part served into account in the sentence to be imposed. The court shall decide whether a measure ordered abroad but only partly executed there must be continued or taken into account in the sentence imposed in Switzerland.

Art. 6

Offences committed abroad prosecuted in terms of an international obligation

¹ Any person who commits a felony or misdemeanour abroad that Switzerland is obliged to prosecute in terms of an international convention is subject to this Code provided:

- a. the act is also liable to prosecution at the place of commission or no criminal law jurisdiction applies at the place of commission; and
- b. the person concerned remains in Switzerland and is not extradited to the foreign country.

² The court shall determine the sentence so that overall the person concerned is not treated more severely than would have been the case under the law at the place of commission.

³ Unless the offence involves a gross violation of the principles of the Federal Constitution and of the ECHR⁸, the person concerned shall not be liable to further prosecution in Switzerland if:

- a. he has been acquitted of the offence abroad in a legally binding judgment;

⁷ SR 0.101

⁸ SR 0.101

- b. the sentence that was imposed abroad has been executed, waived, or has prescribed.

⁴ If the person concerned has been convicted of the offence abroad and if the sentence imposed abroad has been partly served, the court shall take the part served into account in the sentence to be imposed. The court shall decide whether a measure ordered abroad but only partly executed there must be continued or taken into account in the sentence imposed in Switzerland.

Art. 7

Other offences
committed
abroad

¹ Any person who commits a felony or misdemeanour abroad where the requirements of Articles 4, 5 or 6 are not fulfilled is subject to this Code if:

- a. the offence is also liable to prosecution at the place of commission or the place of commission is not subject to criminal law jurisdiction;
- b. the person concerned is in Switzerland or is extradited to Switzerland due to the offence; and
- c. under Swiss law extradition is permitted for the offence, but the person concerned is not being extradited.

² If the person concerned is not Swiss and if the felony or misdemeanour was not committed against a Swiss person, paragraph 1 is applicable only if:

- a. the request for extradition was refused for a reason unrelated to the nature of the offence; or
- b. the offender has committed a particularly serious felony that is proscribed by the international community.

³ The court shall determine the sentence so that overall the person concerned is not treated more severely than would have been the case under the law at the place of commission.

⁴ Unless the offence involves a gross violation of the principles of the Federal Constitution and the ECHR⁹, the person concerned shall not be liable to further prosecution in Switzerland for the offence if:

- a. he has been acquitted of the offence abroad in a legally binding judgment;
- b. the sentence that was imposed abroad has been served, waived, or has prescribed.

⁵ If the person concerned has been convicted of the offence abroad and if the sentence imposed abroad has been partly served, the court shall take the part served into account in the sentence to be imposed. The

court shall decide whether a measure ordered abroad but only partly executed there must be continued or taken into account in the sentence imposed in Switzerland.

Art. 8

Place of
commission

¹ A felony or misdemeanour shall be considered to be committed at the place where the person concerned commits it or unlawfully omits to act, and at the place where the offence has taken effect

² An attempted offence shall be considered to be committed at the place where the person concerned attempted it and at the place where he intended the offence to take effect.

Art. 9

4. Personal scope
of application

¹ This Code does not apply to persons whose offences are subject to military criminal law.

² For persons who have not attained the age of 18 at the time of the offence, the provisions of the Juvenile Criminal Law Act of 20 June 2003¹⁰ (JCLA) are reserved. Where an offence committed before and after attaining the age of 18 must be judged, Article 3 paragraph 2 JCLA applies.¹¹

Title Two: Criminal Liability

Art. 10

1. Felonies
and misdemean-
ours.

¹ In this Code, felonies are distinguished from misdemeanours according to the severity of the penalties that the offence carries.

Definition

² Felonies are offences that carry a custodial sentence of more than three years.

³ Misdemeanours are offences that carry a custodial sentence not exceeding three years or a monetary penalty.

Art. 11

Commission by
omission

¹ A felony or misdemeanour may also be committed by a failure to comply with a duty to act.

² A person fails to comply with a duty to act if he does not prevent a legal interest protected under criminal law from being exposed to

¹⁰ SR 311.1

¹¹ Amended in accordance with Art. 44 No 1 of the Juvenile Criminal Law Act of 20 June 2003, in force since 1 Jan. 2007 (SR 311.1).

danger or from being harmed even though, due to his legal position, he has a duty to do so, in particular on the basis of:

- a. the law;
- b. a contract;
- c. a risk-bearing community entered into voluntarily; or
- d. the creation of a risk.

³ Any person who fails to comply with a duty to act is liable to prosecution only if, on the basis of the elements of the offence concerned, his conduct is, in the circumstances, as culpable as it would have been had he actively committed the offence.

⁴ The court may reduce the sentence.

Art. 12

2. Intention and negligence.
Definitions

¹ Unless the law expressly provides otherwise, a person is only liable to prosecution for a felony or misdemeanour if he commits it wilfully.

² A person commits a felony or misdemeanour wilfully if he carries out the act in the knowledge of what he is doing and in accordance with his will. A person acts wilfully as soon as he regards the realisation of the act as being possible and accepts this.

³ A person commits a felony or misdemeanour through negligence if he fails to consider or disregards the consequences of his conduct due to a culpable lack of care. A lack of care is culpable if the person fails to exercise the care that is incumbent on him in the circumstances and commensurate with his personal capabilities.

Art. 13

Error of fact

¹ If the person concerned acts under an erroneous belief as to the circumstances, the court shall judge the act according to the circumstances as the offender believed them to be.

² If the person concerned could have avoided the error had he exercised due care, he shall be liable to prosecution for his negligent act provided the negligent commission of the act is an offence.

Art. 14

3. Lawful acts and guilt.
Act permitted by law

Any person who acts as required or permitted by the law, acts lawfully even if the act carries a penalty under this Code or another Act.

Art. 15

Legitimate self-defence

If any person is unlawfully attacked or threatened with imminent attack, the person attacked and any other person are entitled to ward off the attack by means that are reasonable in the circumstances.

Art. 16

Mitigatory self-defence

¹ If a person in defending himself exceeds the limits of self-defence as defined in Article 15 and in doing so commits an offence, the court shall reduce the sentence.

² If a person in defending himself exceeds the limits of self-defence as a result of excusable excitement or panic in reaction to the attack, he does not commit an offence.

Art. 17

Legitimate act in a situation of necessity

Any person who carries out an act that carries a criminal penalty in order to save a legal interest of his own or of another from immediate and not otherwise avertable danger, acts lawfully if by doing so he safeguards interests of higher value.

Art. 18

Mitigatory act in a situation of necessity

¹ Any person who carries out an act that carries a criminal penalty in order to save himself or another from immediate and not otherwise avertable danger to life or limb, freedom, honour, property or other interests of high value shall receive a reduced penalty if he could reasonably have been expected to abandon the endangered interest.

² If the person concerned could not have been reasonably expected to abandon the endangered interest, he does not commit an offence.

Art. 19

Absence of legal responsibility due to a mental disorder and diminished responsibility

¹ If the person concerned was unable at the time of the act to appreciate that his act was wrong or to act in accordance with this appreciation of the act, he is not liable to prosecution.

² If the person concerned was only partially able at the time of the act to appreciate that his act was wrong or to act in accordance with this appreciation of the act, the court shall reduce the sentence.

³ Measures in accordance with Articles 59–61, 63, 64, 67 and 67b may, however, be taken.

⁴ If it was possible for the person concerned to avoid his state of mental incapacity or diminished responsibility and had he done so to foresee the act that may be committed in that state, paragraphs 1–3 do not apply.

Art. 20

Doubt as to legal responsibility

If there are serious grounds for believing that the accused may be legally responsible due to a mental disorder, the investigating authority or the court shall order a specialist report from an expert.

Art. 21

Error as to unlawfulness

Any person who is not and cannot be aware that, by carrying out an act, he is acting unlawfully, does not commit an offence. If the error was avoidable, the court shall reduce the sentence.

Art. 22

4. Attempts.
Criminal liability for attempts

¹ If, having embarked on committing a felony or misdemeanour, the offender does not complete the criminal act or if the result required to complete the act is not or cannot be achieved, the court may reduce the penalty.

² If the offender fails to recognise through a serious lack of judgement that the act cannot under any circumstances be completed due to the nature of the objective or the means used to achieve it, no penalty shall be imposed.

Art. 23

Withdrawal and active repentance

¹ If the person concerned of his own accord does not complete the criminal act or if he assists in preventing the completion of the act, the court may reduce the sentence or waive any penalty.

² If two or more persons carry out or participate in a criminal act, the court may reduce the sentence or waive any penalty in respect of any person concerned who, of his own accord, assists in preventing the completion of the act.

³ The court may also reduce the sentence or waive any penalty in respect of a person who withdraws from carrying out or participating in a criminal act if the withdrawal of the person concerned would have prevented the completion of the act had it not remained uncompleted for other reasons.

⁴ If one or more of the persons carrying out or participating in a criminal act makes a serious effort to prevent the completion of the act, the court may reduce the sentence or waive any penalty if an offence is committed irrespective of the efforts of that person or persons.

Art. 24

5. Participation.
Incitement

¹ Any person who has wilfully incited another to commit a felony or a misdemeanour shall, provided the offence is committed, incur the same penalty as applies to the person who has committed the offence.

² Any person who attempts to incite someone to commit a felony shall incur the penalty applicable to an attempt to commit that felony.

Art. 25

Aiding and abetting

Any person who wilfully assists another to commit a felony or a misdemeanour shall be liable to a reduced penalty.

Art. 26

Participation in a special offence

If criminal liability is established or increased by a special obligation on the part of the offender, a participant shall be liable to a reduced penalty.

Art. 27

Personal circumstances

Special personal conditions, characteristics and circumstances that increase, reduce or exclude criminal liability shall be taken into account in the case of offenders or participants to which they apply.

Art. 28

6. Criminal liability of the media

¹ If an offence is committed and completed through publication in a medium, then, subject to the following provisions, only the author is liable to prosecution.

² If the author cannot be identified or if he cannot be brought to court in Switzerland, then the editor responsible in accordance with Article 322^{bis} is liable to prosecution. If there is no responsible editor, then the person responsible for publication in accordance with Article 322^{bis} is liable for prosecution.

³ If the publication has taken place without the knowledge or against the will of the author, then the editor or, in his absence, the person responsible for publication is liable to prosecution as the offender.

⁴ The accurate reporting of public talks and official communications from a public authority may not be made subject to prosecution.

Art. 28a

Protection of sources

¹ If persons who are professionally involved in the publication of information in the editorial section of a periodical medium or their auxiliary personnel refuse to give evidence as to the identity of the author or as to the content and sources of their information, they shall not be liable to any penalty nor to any procedural law enforcement measures.

² Paragraph 1 does not apply if the court holds that:

- a. the evidence is required in order to save a person from immediate danger to life or limb; or
- b.¹² without the evidence, a case of homicide under Articles 111–113 or a different felony that carries a minimum custodial sentence of three years, or an offence under Articles 187, 189–191, 197 paragraph 3, 260^{ter}, 260^{quinquies}, 305^{bis}, 305^{ter} and 322^{ter}–322^{septies} of this Code or under Article 19 paragraph 2 of the Narcotics Act of 3 October 1951¹³ will not be solved or the persons suspected of committing the said offence may not be apprehended.

Art. 29

7. Agency relationships

A special obligation, the violation of which establishes or increases criminal liability, and which is incumbent only on the legal entity, the company or the sole proprietorship¹⁴, is attributed to a natural person, if that person acts:

- a. as a governing officer or as a member of a governing officer of a legal entity;
- b. as a company member;
- c. as an employee with independent decision-making authority in his field of activity within a legal entity, a company or a sole proprietorship¹⁵; or
- d. without being a governing officer, member of a governing officer, company member or employee, as the de facto manager.

Art. 30

8. Criminal complaint.
Right to file a complaint

¹ If an act is liable to prosecution only if a complaint is filed, any person who suffers harm due to the act may request that the person responsible be prosecuted.

² If the person suffering harm does not have the legal capacity to act, his legal representative is entitled to file a complaint. If he is under guardianship, the guardianship authority is entitled to file a complaint.

³ If the person suffering harm is a minor or has been relieved of legal capacity, he is entitled to file a complaint if he is capable of judgement.

⁴ If the person suffering harm dies without filing the criminal complaint or without expressly waiving his right to file the criminal complaint, his next of kin are entitled to file the complaint.

¹² Amended in accordance with No I 1 of the Federal Act of 21 March 2003 (Financing of Terrorism), in force since 1 Oct. 2003 (AS **2003** 3043 3047; BBl **2002** 5390).

¹³ SR **812.121**

¹⁴ Footnote relevant to German text only.

¹⁵ Footnote relevant to German text only.

⁵ If an entitled person expressly waives his right to file a complaint, his waiver is final.

Art. 31

Time limit for filing a complaint

The right to file a complaint expires after three months. The period begins on the day that the person entitled to file a complaint discovers the identity of suspect.

Art. 32

Indivisibility

If an entitled person files a complaint against one person who participated in the act, all the participants become liable to prosecution.

Art. 33

Withdrawal of a complaint

¹ The person entitled to file a complaint may withdraw the complaint at any time before notice is given of the judgment of the second cantonal instance.

² Any person who has withdrawn his complaint may not file it again.

³ If the entitled person withdraws his complaint against one suspect, the withdrawal applies to all suspects.

⁴ If a suspect objects to the withdrawal of the complaint against him, the withdrawal does not apply to him.

Title Three: Sentences and Measures

Chapter One: Sentences

Section One:

Monetary Penalties, Community Service, Custodial Sentences

Art. 34

1. Monetary penalty.
Assessment

¹ Unless the law provides otherwise, a monetary penalty amounts to a maximum of 360 daily penalty units. The court decides on the number according to the culpability of the offender.

² A daily penalty unit amounts to a maximum of 3000 francs. The court decides on the value of the daily penalty unit according to the personal and financial circumstances of the offender at the time of conviction, and in particular according to his income and capital, living expenses, any maintenance or support obligations and the minimum subsistence level.

³ The authorities of the Confederation, the cantons and the communes shall provide the information required to determine the daily penalty unit.

⁴ The number and value of the daily penalty units must be stated in the judgment.

Art. 35

Execution

¹ The executive authority shall specify that the offender make payment within a period of between one and twelve months. It may stipulate payment by instalments and on request may extend the period allowed.

² If there is justified suspicion that the offender will fail to pay the monetary penalty, the executive authority may request immediate payment or the provision of security.

³ If the offender fails to pay the monetary penalty within the specified period, the executive authority shall instruct the debt collection proceedings provided their success is expected.

Art. 36

Alternative
custodial
sentence

¹ In the event that the offender fails to pay the monetary penalty and it is not recoverable through debt collection procedures (Art. 35 para. 3), the offender shall serve a custodial sentence as the alternative to the monetary penalty. A daily penalty unit corresponds to one day in custody. The retrospective payment of the monetary penalty leads to a corresponding reduction in the alternative custodial sentence.

² If the monetary penalty has been imposed by an administrative authority, the court shall decide on the alternative custodial sentence.

³ If the offender is unable to pay the monetary penalty because the circumstances relevant to the assessment of the daily penalty unit have worsened since conviction through no fault of his own, he may request the court to defer the execution of the alternative custodial sentence and instead to:

- a. extend the deadline for payment for up to 24 months; or
- b. reduce the daily penalty unit; or
- c. order community service.

⁴ If the court orders community service, Articles 37, 38 and 39 paragraph 2 apply.

⁵ In the event that the offender fails to pay the monetary penalty despite being granted an extended deadline for payment or a reduced daily penalty unit or fails to perform the community service despite being warned of the consequences, the alternative custodial sentence shall be executed.

- Art. 37**
2. Community service.
Type of work
- ¹ The court may, with consent of the offender, order community service of a maximum of 720 hours as an alternative to a custodial sentence of less than six months or a monetary penalty not exceeding 180 daily penalty units.
- ² Community service shall be performed for the benefit of welfare institutions, projects in the public interest or persons in need. No remuneration is paid for the work done.
- Art. 38**
- Execution
- The executive authority shall stipulate a period of no more than two years in which the offender must perform the community service.
- Art. 39**
- Conversion
- ¹ If, despite being warned of the consequences, the offender fails to perform the community service in accordance with the judgment or the conditions and requirements imposed by the competent authority, the court shall convert the community service order into a monetary penalty or a custodial sentence.
- ² Four hours of community service shall correspond to one daily penalty unit of a monetary penalty or one day of a custodial sentence.
- ³ A custodial sentence may only be imposed if it is to be expected that a monetary penalty may not be paid.
- Art. 40**
3. Custodial sentence.
In general
- The duration of the custodial sentence shall normally be no less than six months; the maximum term shall be 20 years. Where the law expressly provides, the custodial sentence shall be for life.
- Art. 41**
- Short unsuspended custodial sentence
- ¹ The court may impose an immediate custodial sentence of up to six months only if the requirements for a suspended sentence (Art. 42) are not fulfilled and it is to be expected that a monetary penalty may not be paid or community service not completed.
- ² It must explain why it has decided to impose this form of penalty.
- ³ The right is reserved to impose a custodial sentence in place of a monetary penalty (Art. 36) or uncompleted community service (Art. 39).

Section Two: Suspended and Partially Suspended Sentences

Art. 42

1. Suspended sentences

¹ The court shall normally suspend the execution of a monetary penalty, a community service order or a custodial sentence of at least six months and no more than two years if an unsuspended sentence does not appear to be necessary in order to deter the offender from committing further felonies or misdemeanours.

² If the offender received a suspended or unsuspended custodial sentence of at least six months or a monetary penalty of at least 180 daily penalty units within the five years prior to the offence, the sentence may only be suspended where the circumstances are especially favourable.

³ The suspension of the execution of a sentence may also be refused if the offender has failed to make a reasonable effort to compensate for any loss or damage he may have caused.

⁴ A suspended sentence may be combined with an unsuspended monetary penalty or with a fine in accordance with Article 106.¹⁶

Art. 43

2. Partially suspended sentences

¹ The court may partially suspend the execution of a monetary penalty, a community service order or a custodial sentence of at least one year and no more than three years if this is necessary in order to take sufficient account of the culpability of the offender.

² The part of the sentence that must be executed immediately may not exceed one half of the sentence.

³ In the case of a partially suspended custodial sentence, both the suspended and the unsuspended parts must amount to at least six months. The provisions on the granting of parole (Art. 86) do not apply to the unsuspended part of the sentence.

Art. 44

3. General provisions.
Probationary period

¹ If the court suspends the execution of a sentence in full or in part, it shall make the offender subject to a probationary period of from two to five years.

² The court may order probation assistance and impose conduct orders for the duration of the probationary period.

¹⁶ Amended in accordance with No I of the Federal Act of 24 March 2006 (Revision of the Law on Sanctions and the Register of Convictions), in force since 1 Jan. 2007 (AS 2006 3539 3544; BBl 2005 4689).

³ The court shall explain the importance and the consequences of the suspended and partially suspended sentence to the offender.

Art. 45

Successful
completion of
probation

If the offender is of good conduct until the expiry of the probationary period, the postponed sentence shall not be executed.

Art. 46

Breach of
probation

¹ If the offender commits a felony or misdemeanour during the probationary period and if it therefore must be expected that he will commit further offences, the court shall revoke the suspended sentence or the suspended part of the sentence. It may modify the form of the revoked sentence in order to form a cumulative sentence with the new sentence in the analogous application of Article 49. In doing so it may impose an immediate custodial sentence only if the cumulative sentence amounts to a minimum of six months or the requirements of Article 41 are fulfilled.

² If it is not expected that the offender will commit further offences, the court shall not revoke the suspended sentence. It may admonish the offender or extend the probationary period by up to one half of the duration specified in the judgment. The court may order probation assistance and impose conduct orders for the duration of the extended probationary period. If the extension begins after the expiry of the probationary period, the extended period begins on the day that it is ordered.

³ The court that judges the new felony or misdemeanour shall also decide on revocation.

⁴ If the offender fails to attend for probation assistance or disregards the conduct orders, Article 95 paragraphs 3–5 apply.

⁵ Revocation may no longer be ordered if three years have elapsed since the expiry of the probationary period.

Section Three: Determination of the Sentence

Art. 47

1. Principle

¹ The court shall determine the sentence according to the culpability of the offender. It shall take account of the previous conduct and the personal circumstances of the offender as well as the effect that the sentence will have on his life.

² Culpability shall be assessed according to the seriousness of the damage or danger to the legal interest concerned, the reprehensibility

of the conduct, the offender's motives and aims, and the extent to which the offender, in view of the personal and external circumstances, could have avoided causing the danger or damage.

Art. 48

2. Mitigation of
the sentence.
Grounds

The court shall reduce the sentence if:

- a. the offender acted:
 1. for honourable motives,
 2. while in serious distress,
 3. while of the view that he was under serious threat,
 4. at the behest of a person whom he was duty bound to obey or on whom he was dependent;
- b. the offender was seriously provoked by the conduct of the person suffering injury;
- c. the offender acted in a state of extreme emotion that was excusable in the circumstances or while under serious psychological stress;
- d. the offender has shown genuine remorse, and in particular has made reparation for the injury, damage or loss caused, insofar as this may reasonably be expected of him;
- e. the need for punishment has been substantially reduced due to the time that has elapsed since the offence and the offender has been of good conduct in this period.

Art. 48a

Effect

¹ If the court chooses to reduce the sentence, it shall not be bound by the minimum penalty that the offence carries.

² The court may impose a different form of penalty from that which the offence carries, but shall remain bound by the statutory maximum and minimum levels for that form of penalty.

Art. 49

3. Concurrent
sentencing

¹ If the offender, by committing one or more offences, has fulfilled the requirements for two or more penalties of the same form, the court shall impose the sentence for the most serious offence at an appropriately increased level. It may not, however, increase the maximum level of the sentence by more than half, and it shall be bound by the statutory maximum for that form of penalty.

² If the court must pass sentence on an offence that the offender committed before he was sentenced for a different offence, it shall determine the supplementary penalty so that the offender is not more se-

verely punished than he would have been had the sentences been imposed at the same time.

³ If the offender committed one or more offences before reaching the age of 18, the court shall determine the cumulative sentence in accordance with paragraphs 1 and 2 such that it is not more severe than it would have been had sentences been imposed separately.

Art. 50

4. Obligation to justify

Where a judgment must be justified, the court shall also specify the circumstances taken into account in determining the sentence and their weighting.

Art. 51

5. Taking account of pre-trial detention

When determining the sentence, the court shall take account of any period in pre-trial detention that the offender has served in respect of the proceedings in question or any other proceedings. One day in detention corresponds to one daily penalty unit of a monetary penalty or four hours of community service.

Section Four: Exemption from Punishment and Abandonment of Proceedings¹⁷

Art. 52

1. Grounds for exemption from punishment. No need for a penalty¹⁸

The competent authority shall refrain from prosecuting the offender, bringing him to court or punishing him if the level of culpability and consequences of the offence are negligible.

Art. 53

Reparation

If the offender has made reparation for the loss, damage or injury or made every reasonable effort to right the wrong that he has caused, the competent authority shall refrain from prosecuting him, bringing him to court or punishing him if:

- a. the requirements for a suspended sentence (Art. 42) are fulfilled; and

¹⁷ Amended in accordance with No I of the Federal Act of 3 Oct. 2003 (Prosecution of Offences within Marriage or Registered Partnerships), in force since 1 April 2004 (AS **2004** 1403 1407; BBl **2003** 1909 1937).

¹⁸ Amended in accordance with No I of the Federal Act of 3 Oct. 2003 (Prosecution of Offences within Marriage or Registered Partnerships), in force since 1 April 2004 (AS **2004** 1403 1407; BBl **2003** 1909 1937).

- b. the interests of the general public and of the persons harmed in prosecution are negligible.

Art. 54

Effect on the offender of his act

If the offender is so seriously affected by the immediate consequences of his act that a penalty would be inappropriate, the responsible authorities shall refrain from prosecuting him, bringing him to court or punishing him.

Art. 55

2. General provisions

¹ The court shall refrain from revoking a suspended sentence and in the case of the parole from a recall if the requirements for an exemption from punishment are met.

² The cantons shall designate the bodies responsible for the administration of criminal justice as the competent authorities under Articles 52, 53 and 54.

Art. 55a¹⁹

3. Discontinuation of proceedings. Spouse, registered partner, or partner as victim²⁰

¹ In a case of common assault (Art. 123 no. 2 para. 3–5), repeated acts of aggression (Art. 126 para. 2 let. b, b^{bis} and c), threatening behaviour (Art. 180 para. 2) and coercion (Art. 181), the public prosecutor or the court may suspend the proceedings if:²¹

- a.²² the victim:
 - 1. is the spouse of the offender and the offence was committed during the marriage or within a year of divorce, or
 - 2. is the registered partner of the offender and the offence was committed during the registered partnership or within a year of its dissolution, or
 - 3. is the hetero- or homosexual partner of the offender or the ex-partner of the offender if they have been separated for less than a year; and
- b. the victim or, if he or she lacks legal capacity, his or her legal representative so requests or if the victim or his or her legal representative consents to a corresponding application from the competent authority.

¹⁹ Inserted by No 1 of the Federal Act of 3 Oct. 2003 (Prosecution of Offences within Marriage or Registered Partnerships), in force since 1 April 2004 (AS 2004 1403 1407; BBl 2003 1909 1937).

²⁰ Amended in accordance with Art. 37 No 1 of the Same-Sex Partnership Act of 18 June 2004, in force since 1 Jan. 2007 (SR 211.231).

²¹ Amended in accordance with Annex 1 No II 8 of the Criminal Procedure Code of 5 Oct. 2007, in force since 1 Jan. 2011 (AS 2010 1881; BBl 2006 1085).

²² Amended in accordance with Art. 37 No 1 of the Same-Sex Partnership Act of 18 June 2004, in force since 1 Jan. 2007 (SR 211.231).

² The proceedings shall be resumed if the victim or, if he or she lacks legal capacity, his or her legal representative revokes consent in writing or verbally within six months of the suspension of the proceedings.²³

³ If consent is not revoked, the public prosecutor or the court shall order the abandonment of the proceedings.²⁴

⁴ ...²⁵

Chapter Two: Measures

Section One:

Therapeutic Measures and Indefinite Incarceration

Art. 56

1. Principles

¹ A measure shall be ordered if:

- a. a penalty alone is not sufficient to counter the risk of further offending by the offender;
- b. the offender requires treatment or treatment is required in the interest of public safety; and
- c. the requirements of Articles 59–61, 63 or 64 are fulfilled.

² The ordering of a measure requires that the related intervention in the personal rights of the offender is not unreasonable in view of the probability and seriousness of additional offences.

³ In ordering a measure under Articles 59–61, 63 and 64 and in modifying the sanction in accordance with Article 65, the court shall base its decision on an expert assessment. This shall provide an opinion on:

- a. the necessity and the prospects of success of any treatment of the offender;
- b. the nature and the probability of possible additional offences; and
- c. the ways in which the measure may be implemented.

⁴ If the offender has committed an offence in terms of Article 64 paragraph 1, the assessment must be conducted by an expert who has neither treated the offender before nor been responsible in any other way for his care.

²³ Amended in accordance with Annex 1 No II 8 of the Criminal Procedure Code of 5 Oct. 2007, in force since 1 Jan. 2011 (AS **2010** 1881; BBI **2006** 1085).

²⁴ Amended in accordance with Annex 1 No II 8 of the Criminal Procedure Code of 5 Oct. 2007, in force since 1 Jan. 2011 (AS **2010** 1881; BBI **2006** 1085).

²⁵ Repealed by Annex 1 No II 8 of the Criminal Procedure Code of 5 Oct. 2007, 1 Jan. 2011 (AS **2010** 1881; BBI **2006** 1085).

^{4bis} If consideration is given to ordering indefinite incarceration in accordance with Article 64 paragraph 1^{bis}, the court shall base its decision on reports from at least two experienced specialists who are independent of each other and who have neither treated the offender nor been responsible in any other way for his care.²⁶

⁵ Normally the court shall only order a measure if a suitable institution is available.

⁶ Where the requirements for a measure are no longer fulfilled, it shall be revoked.

Art. 56a

Concurrent
measures

¹ If two or more measures are equally suitable but only one is necessary, the court shall order the measure that is more convenient for the offender.

² If two or more measures are necessary, the court may order these concurrently.

Art. 57

Relationship
between
measures and
penalties

¹ If the requirements for both a penalty and a measure are fulfilled, the court shall order both sanctions.

² The implementation of a measure under Articles 59–61 shall take precedence over a custodial sentence that is imposed at the same time or which is executed through revocation of a suspended sentence or recall to custody. Likewise, the reactivation of the execution of a measure in accordance with Article 62a shall take precedence over a cumulative sentence imposed at the same time.

³ The deprivation of liberty associated with the measure must be taken into account in determining the penalty.

Art. 58

Implementation

1 ...²⁷

² The therapeutic institutions in terms of Articles 59–61 must be managed separately from penal institutions.

²⁶ Inserted by No I of the Federal Act of 21 Dec. 2007 (Indefinite Incarceration of Extremely Dangerous Offenders), in force since 1 Aug. 2008 (AS 2008 2961 2964; BBl 2006 889).

²⁷ Repealed by Annex 1 No II 8 of the Criminal Procedure Code of 5 Oct. 2007, with effect from 1 Jan. 2011 (AS 2010 1881; BBl 2006 1085).

2. In-patient
therapeutic
measures.
Treatment
of mental
disorders

Art. 59

¹ If the offender is suffering from a serious mental disorder, the court may order in-patient treatment if:

- a. the offender's mental disorder was a factor in a felony or misdemeanour that he committed; and
- b. it is expected that the measure will reduce the risk of further offences being committed in which his mental disorder is a factor.

² The in-patient treatment shall be carried out in an appropriate psychiatric institution or therapeutic institution.

³ If there is a risk of the offender absconding or committing further offences, he shall be treated in a secure institution. He may also be treated in a penal institution in accordance with Article 76 paragraph 2, provided it is guaranteed that the required therapeutic treatment can be provided by specialist staff.²⁸

⁴ The deprivation of liberty associated with in-patient treatment shall normally amount to a maximum of five years. If the requirements for parole have not yet been fulfilled after five years and if it is expected that the measure will reduce the risk of further felonies or misdemeanours being committed in which his mental disorder is a factor, the court may at the request of the executive authority order the extension of the measure for a maximum of five years in any case.

Art. 60

Treatment of
addiction

¹ If the offender is dependent on addictive substances or in any other way dependent, the court may order in-patient treatment if:

- a. the offender's dependence was a factor in the felony or misdemeanour that he committed; and
- b. it is expected that treatment will reduce the risk of further offences being committed in which his dependence is a factor.

² The court shall take account of the offender's request for and readiness to undergo treatment.

³ The treatment shall be carried out in a specialised institution or, if necessary, in a psychiatric hospital. It must be adjusted to the special needs of the offender and the state of his health.

⁴ The deprivation of liberty associated with in-patient treatment shall normally amount to a maximum of three years. If the requirements for parole have not yet been fulfilled after three years and if it is expected that the measure will reduce the risk of further felonies or misdemean-

²⁸ Amended in accordance with No 1 of the Federal Act of 24 March 2006 (Revision of the Law on Sanctions and the Register of Convictions), in force since 1 Jan. 2007 (AS 2006 3539 3544; BBl 2005 4689).

ours being committed in which his dependence is a factor, the court may at the request of the executive authority on one occasion only order the extension of the measure for a maximum of one further year. In the event of an extension and the recall to custody following parole, the deprivation of liberty associated with the measure may not exceed a maximum of six years.

Art. 61

Measures
for young
adults

¹ If the offender was under 25 years of age at the time of the offence and if he is suffering from a serious developmental disorder, the court may commit him to an institution for young adults if:

- a. the offender's developmental disorder was a factor in the felony or misdemeanour that he committed; and
- b. it is expected that the measure will reduce the risk of further offences being committed in which his developmental disorder is a factor.

² Institutions for young adults must be managed separately from other institutions and facilities under this Code.

³ The offender should be taught the skills needed to live independently and without further offending. In particular, he should be encouraged to undergo basic and advanced vocational and professional training.

⁴ The deprivation of liberty associated with the measure shall amount to a maximum of four years. In the event of the recall to custody following release on parole, it may not exceed a maximum of six years. The measure must be revoked when the offender reaches the age of 30.

⁵ If the offender was convicted of an offence committed before he was 18 years of age, the measure may be implemented in an institution for minors.

Art. 62

Parole

¹ The offender shall be released on parole from undergoing an in-patient measure as soon as his condition justifies his being given the liberty to prove himself.

² In the case of release on parole from a measure under Article 59, the probationary period amounts to one to five years, and in the case of release on parole from a measure under Articles 60 and 61, from one to three years.

³ The person released on parole may be required to undergo out-patient treatment during the probationary period. The executive authority may order probation assistance and issue conduct orders for the duration the probationary period.

⁴ If on expiry of the probationary period, a continuation of the outpatient treatment, the probation assistance or the conduct orders is considered necessary in order to reduce the risk of further felonies and misdemeanours being committed that are associated with the condition of the person released on parole, the court may at the request of the executive authority extend the probationary period as follows:

- a. by one to five years in the case of release on parole from a measure in accordance with Article 59;
- b. by one to three years in the case of release on parole from a measure under Articles 60 and 61.

⁵ The probationary period following release on parole from a measure under Articles 60 and 61 may not exceed six years.

⁶ If the offender has committed an offence in terms of Article 64 paragraph 1, the probationary period may be extended as often as is considered necessary to prevent further such offences being committed.

Art. 62a

Breach of
probation

¹ If a person released on parole commits an offence during the probationary period and thus demonstrates that the risk that the measure was intended to reduce is still present, the court assessing the new offence may, after consulting the executive authority:

- a. order his recall to custody;
- b. revoke the measure and, provided the relevant requirements are fulfilled, order a new measure; or
- c. revoke the measure and, provided the relevant requirements are fulfilled, order the execution of a custodial sentence.

² If as a result of the new offence the requirements for an unsuspended custodial sentence are fulfilled and if this sentence runs concurrently with a custodial sentence that has been suspended to give precedence to the measure, the court shall impose a cumulative sentence in application of Article 49.

³ If as a result of the conduct of the person released on parole during the probationary period there is a serious expectation that he could commit an offence in terms of Article 64 paragraph 1, the court that ordered the measure may, at the request of the executive authority, order a recall to custody.

⁴ For a measure under Article 59, the recall to custody shall be for a maximum period of five years, and for measures under Articles 60 and 61 for a maximum period of two years.

⁵ If the court decides against a recall to custody or a new measure, it may:

- a. admonish the person released on parole;
- b. order out-patient treatment or probation assistance;
- c. impose conduct orders on the person released on parole; and
- d. extend the probationary period by from one to five years in the case of a measure under Article 59, and by from one to three years in the case of a measure under Articles 60 and 61.

⁶ If the person released on parole fails to comply with the terms of probation assistance or disregards the conduct orders, Article 95 paragraphs 3–5 applies.

Art. 62b

Final release

¹ If the person released on parole successfully completes the probationary period, he shall be granted final release.

² The offender shall be granted final release if the maximum duration of a measure under Articles 60 and 61 is reached and the requirements for the parole apply.

³ If deprivation of liberty associated with the measure is for a shorter period than the suspended custodial sentence, the remainder of the sentence shall no longer be executed.

Art. 62c

Termination
of a measure

¹ A measure shall be terminated, if:

- a. its implementation or continuation appears to have no prospect of success;
- b. the maximum duration under Articles 60 and 61 has been reached and the requirements for the parole do not apply; or
- c. a suitable institution does not exist or no longer exists.

² If the deprivation of liberty associated with the measure is for a shorter period than the suspended custodial sentence, the remainder of the sentence shall be executed. If the requirements for parole or a suspended custodial sentence apply in relation to the remainder of the sentence, execution of the sentence shall be suspended.

³ Instead of ordering the execution of the sentence, the court may order another measure if it is to be expected that such a measure will reduce the risk of the offender committing further felonies and misdemeanours in which his condition is a factor.

⁴ If there is a serious expectation that if a measure ordered in respect of an offence in terms of Article 64 paragraph 1 is terminated, the offender will commit further such offences, the court may at the request of the executive authority order his indefinite incarceration.

⁵ If the competent authority regards a guardianship measure to be appropriate on the termination of the measure, it shall inform the guardianship authority of this.

⁶ Furthermore, the court may terminate an in-patient therapeutic measure before or during its implementation and order another in-patient therapeutic measure in its place if it is expected that the new measure has a significantly better chance of reducing the risk of the offender committing further felonies and misdemeanours in which his condition is a factor.

Art. 62d

Consideration of release and the termination of measures

¹ The competent authority shall on request or ex officio consider whether and when the offender should be released on parole from the implementation of the measure or whether the measure should be terminated. It shall make a decision on such matters at least one occasion each year. It shall first grant a hearing to the offender and obtain a report from the governing body of the relevant institution.

² If the offender committed an offence in terms of Article 64 paragraph 1, the competent authority shall reach its decision on the basis of the expert opinion of an independent specialist and after hearing a committee comprising representatives of the prosecution services, the execution authorities and one or more psychiatrists. The specialists and psychiatrists concerned must not be those responsible for the treatment or care of the offender.

Art. 63

3. Out-patient treatment. Requirements and implementation

¹ If the offender is suffering from a serious mental disorder or if he is dependent on addictive substances or in any other way, the court may order that he receive out-patient rather than in-patient treatment if:

- a. the offender commits an offence in which his condition is a factor; and
- b. it is expected that the measure will reduce the risk of further offences being committed in which his condition is a factor.

² The court may defer the execution of an unsuspended custodial sentence imposed at the same time, a suspended custodial sentence due for execution following revocation of suspension and the remainder of a sentence due for execution following a recall to custody to give precedence to out-patient treatment in order to take account of the form of the treatment. It may order probation assistance and issue conduct orders for the duration the treatment.

³ The competent authority may order the offender to be treated temporarily as an in-patient if this is required in order to initiate the out-

patient treatment. The period of in-patient treatment may not exceed two months.

⁴ The period of out-patient treatment may not normally exceed five years. If the continuation of the out-patient treatment is considered necessary at the end of the five-year period in order to reduce the risk of further felonies and misdemeanours in which a mental disorder is a factor, the court may at the request of the executive authority continue the treatment for a further period of from one to five years.

Art. 63a

Termination of
the measure

¹ The competent authority shall assess at least once each year whether the out-patient treatment should be continued or terminated. It shall first grant a hearing to the offender and obtain a report from the therapists.

² The out-patient treatment shall be terminated by the competent authority if:

- a. it has been successfully completed;
- b. its continuation appears to have no prospect of success; or
- c. the statutory maximum duration for the treatment of an alcohol, drug or therapeutic product dependent person has been reached.

³ If the offender commits a further offence during the out-patient treatment and thus demonstrates that this form of treatment will probably be unsuccessful in averting the risk of offences being committed in which the condition of the offender is a factor, the unsuccessful treatment shall be terminated by order of the court assessing the new offence.

⁴ If the offender fails to comply with the conditions of probation assistance or if he disregards the conduct orders, Article 95 paragraphs 3–5 applies.

Art. 63b

Execution of
the suspended
custodial
sentence

¹ If the out-patient treatment has been successfully completed, the suspended custodial sentence is not executed.

² If out-patient treatment is terminated due to there being no prospect of success (Art. 63a para. 2 let. b), the statutory maximum duration being reached (Art. 63a para. 2 let. c) or its being unsuccessful (Art. 63a para. 3), the suspended custodial sentence shall be executed.

³ If out-patient treatment conducted while the offender is at liberty is considered a risk to third parties, the suspended custodial sentence shall be executed and the out-patient treatment continued while the custodial sentence is being served.

⁴ The court shall decide on the extent to which the deprivation of liberty associated with the out-patient treatment is taken into account in determining the custodial sentence. If the requirements for parole or a suspended custodial sentence apply in relation to the remainder of the sentence, execution of the sentence shall be suspended.

⁵ Instead of the execution of the sentence the court may order an in-patient therapeutic measure under Articles 59–61 if it is to be expected that this will reduce the risk of the offender committing further felonies or misdemeanours in which his condition is a factor.

Art. 64

4. Indefinite incarceration. Requirements and execution

¹ The court shall order indefinite incarceration if the offender has committed murder, intentional homicide, serious assault, rape, robbery, hostage taking, arson, endangering life or another offence that carries a maximum sentence of five or more years by which he has caused or intended to cause serious detriment to the physical, psychological or sexual integrity of another person, and if:²⁹

- a. due to the personality traits of the offender, the circumstances of the offence and his general personal circumstances, it is seriously expected that he will commit further offences of the same type; or
- b. due to a permanent or long-term mental disorder of considerable gravity that was a factor in the offence, it is seriously expected that the offender will commit further offences of the same type and the ordering of a measure in accordance with Article 59 does not promise any success.

^{1bis} The court shall order indefinite incarceration if the offender has committed murder, intentional homicide, serious assault, robbery, rape, indecent assault, false imprisonment or abduction, hostage-taking, trafficking in human beings, genocide, or a felony under the heading of crimes against humanity or war crimes (Title Twelve) and if the following requirements are met:³⁰

- a. the offender, by committing the offence, caused or intended to cause serious detriment to the physical, psychological or sexual integrity of another person.
- b. There is a high probability that the offender will commit one of these felonies again.

²⁹ Amended in accordance with No I of the Federal Act of 24 March 2006 (Revision of the Law on Sanctions and the Register of Convictions), in force since 1 Jan. 2007 (AS **2006** 3539 3544; BBI **2005** 4689).

³⁰ Amended in accordance with No I 1 of the Federal Act of 18 June 2010 on the Amendment of Federal Legislation in Implementation of the Rome Statue of the International Criminal Court, in force since 1 Jan. 2011 (AS **2010** 4963; BBI **2008** 3863).

- c. The offender is assessed as being permanently untreatable, as the treatment offers no long-term prospect of success.³¹

² The execution of the custodial sentence takes priority over indefinite incarceration. The provisions on parole in relation to the custodial sentence (Art. 86–88) do not apply.³²

³ If during the execution of the custodial sentence, it is expected that the offender will prove to be of good behaviour when at liberty, the court shall order parole from the custodial sentence at the earliest from the time when the offender has served two thirds of a specific custodial sentence or 15 years of a life sentence. The court that ordered indefinite incarceration is responsible for the decision on parole. In addition, Article 64a applies.³³

⁴ Indefinite incarceration shall be executed in a therapeutic institution or in a penal institution in accordance with Article 76 paragraph 2. Public safety must be guaranteed. The offender shall receive psychiatric care if this is necessary.

Art. 64a

Revocation and
release

¹ The offender shall be released on parole from indefinite incarceration in accordance with Article 64 paragraph 1 as soon as it is expected that he will be of good behaviour when at liberty.³⁴ The probationary period amounts to two to five years. For the duration of the probationary period, probation assistance may be ordered and conduct orders may be imposed.

² If on expiry of the probationary period a continuation of the probation assistance or the conduct orders is considered to be necessary in order to reduce the risk of further offences in terms of Article 64 paragraph 1, the court may at the request of the executive authority extend the probationary period by a further two to five years.

³ If due to his conduct during the probationary period, it is seriously expected that the offender may commit further offences in terms of Article 64 paragraph 1, the court at the request of the executive authority shall order his recall to custody.

³¹ Inserted by No I of the Federal Act of 21 Dec. 2007 (Indefinite Incarceration of Extremely Dangerous Offenders), in force since 1 Aug. 2008 (AS 2008 2961 2964; BBl 2006 889).

³² Amended in accordance with No I of the Federal Act of 24 March 2006 (Revision of the Law on Sanctions and the Register of Convictions), in force since 1 Jan. 2007 (AS 2006 3539 3544; BBl 2005 4689).

³³ Amended in accordance with No I of the Federal Act of 24 March 2006 (Revision of the Law on Sanctions and the Register of Convictions), in force since 1 Jan. 2007 (AS 2006 3539 3544; BBl 2005 4689).

³⁴ Amended in accordance with No I of the Federal Act of 21 Dec. 2007 (Indefinite Incarceration of Extremely Dangerous Offenders), in force since 1 Aug. 2008 (AS 2008 2961 2964; BBl 2006 889).

⁴ If the offender when released on parole fails to comply with the conditions of probation assistance or disregards the conduct orders, Article 95 paragraphs 3–5 applies.

⁵ If the offender when released on parole is of good behaviour until the expiry of the probationary period, he shall be granted final release.

Art. 64b³⁵

Consideration of
release

¹ The competent authority shall consider on request or ex officio:

- a. at least once annually, and for the first time after two years have lapsed, whether and when the offender may be released on parole from indefinite incarceration (Art. 64a para. 1);
- b. at least every two years, and for the first time before indefinite incarceration takes effect, whether the requirements for an inpatient therapeutic treatment have been fulfilled and whether a related application should therefore be made to the competent court (Art. 65 para. 1).

² The competent authority shall make its decisions in terms of paragraph 1 based on:

- a. a report from the institution board;
- b. an independent specialist assessment in terms of Article 56 paragraph 4;
- c. its hearing of a committee in accordance with Article 62d paragraph 2;
- d. its hearing of the offender.

Art. 64c³⁶

Consideration of
release from
indefinite
incarceration and
parole

¹ In cases of indefinite incarceration under Article 64 paragraph 1^{bis} the competent authority shall consider ex officio or on application whether there are any new scientific findings that lead to the expectation that the offender can be treated so that he will no longer pose a risk to the public. It shall decide on the basis of a report from the Federal Commission for the Assessment of the Treatability of Offenders subject to Indefinite Incarceration.

² If the competent authority concludes that the offender can be treated, it shall offer him the option of treatment. Treatment shall be carried out in a secure institution. Until the order imposing indefinite incar-

³⁵ Amended in accordance with No I of the Federal Act of 24 March 2006 (Revision of the Law on Sanctions and the Register of Convictions), in force since 1 Jan. 2007 (AS 2006 3539 3544; BBl 2005 4689).

³⁶ Inserted by No I of the Federal Act of 21 Dec. 2007 (Indefinite Incarceration of Extremely Dangerous Offenders), in force since 1 Aug. 2008 (AS 2008 2961 2964; BBl 2006 889).

ceration has been revoked in accordance with paragraph 3, the provisions on the execution of indefinite incarceration continue to apply.

³ If the treatment demonstrates that the risk posed by the offender has been considerably reduced and may be reduced to the extent that he no longer poses a risk to the public, the court shall revoke the order imposing indefinite incarceration and order an in-patient therapeutic measure in accordance with Articles 59–61 in a secure institution.

⁴ The court may grant the offender parole from indefinite incarceration if he no longer poses a risk to the public due to old age, serious illness or on other grounds. Parole is governed by Article 64a.

⁵ The court that ordered indefinite incarceration is responsible for deciding whether parole should be granted. It shall base its decision on reports from at least two experienced specialists who are independent of each other and who have neither treated the offender nor been responsible in any other way for his care.

⁶ Paragraphs 1 and 2 also apply during the execution of the custodial sentence that precedes indefinite incarceration. Indefinite incarceration shall be revoked in accordance with paragraph 3 at the earliest when the offender has served two thirds of a specific custodial sentence or 15 years of a life sentence.

Art. 65

5. Modification of the sanction

¹ If an offender fulfils the requirements for an in-patient therapeutic measure in terms of Articles 59–61 before or during the execution of a custodial sentence or of indefinite incarceration in accordance with Article 64 paragraph 1, the court may order this measure retrospectively.³⁷ The competent court is the court that imposed the sentence or ordered indefinite incarceration. The execution of any remainder of the sentence shall be deferred.

² If during the execution of the custodial sentence, new information or evidence comes to light to the effect that the requirements for indefinite incarceration are fulfilled and already applied at the time of conviction although the court could not have had knowledge of this, the court may order indefinite incarceration retrospectively. Jurisdiction and procedure are determined by the rules that apply to re-opening a case.³⁸

³⁷ Amended in accordance with No I of the Federal Act of 21 Dec. 2007 (Indefinite Incarceration of Extremely Dangerous Offenders), in force since 1 Aug. 2008 (AS 2008 2961 2964; BBl 2006 889).

³⁸ Inserted by No I of the Federal Act of 24 March 2006 (Revision of the Law on Sanctions and the Register of Convictions), in force since 1 Jan. 2007 (AS 2006 3539 3544; BBl 2005 4689).

Section Two: Other Measures

Art. 66

1. Good
behaviour bond

¹ If there is the risk that a person will commit a felony or misdemeanour that he has threatened to commit, or if a person convicted of a felony or of a misdemeanour indicates the clear intention to repeat the offence, the court may, at the request of the person threatened, obtain a promise from the offender that he will not commit the offence and require him to deposit appropriate security therefor.

² If he refuses to make the promise, or fails to deposit the security within the specified period, the court may require him to make the promise or deposit the security by imposing a period of detention for security reasons. The period of detention for security reasons may not be for more than two months. It shall be executed in the same way as a short custodial sentence (Art. 79).

³ If the offender commits the felony or the misdemeanour within two years of depositing the security, the security shall be forfeited to the State. If no offence is committed, the security shall be returned.

Art. 67

2. Prohibition
from practising a
profession

¹ If a person has committed a felony or misdemeanour in the exercise of a profession, trade or business, and has as a result received a custodial sentence in excess of six months or a monetary penalty of more than 180 daily units, and if there is a risk of further misconduct, the court may prohibit him totally or partially from practising this activity or comparable activities for a period of six months to five years.

² The prohibition from practising a profession shall exclude the offender from practising the activity on a self-employed basis, as a governing officer of a legal entity or commercial enterprise, or as the agent or representative of another person. If there is a risk that the offender will also misuse his activity in order to commit offences if he is subject to the orders and supervision of a superior, he shall be totally prohibited from practising the activity.

Art. 67a

Implementation

¹ The prohibition from practising a profession comes into effect on the day on which the judgment takes full legal effect. The duration of the execution of a custodial sentence or of a custodial measure (Art. 59–61 and 64) is not taken into account in determining the duration of the prohibition.

² If the offender fails to complete the probationary period successfully and if the suspended custodial sentence is executed or a recall to custody is ordered in respect of a sentence or measure, the duration of

the prohibition shall be calculated from the day on which the offender is released on parole or granted final release or on which the sanction is revoked or remitted.

³ If the offender completes the probationary period successfully, the competent authority shall decide on any modification of the conditions or duration of the prohibition from practising a profession, or on whether the prohibition should be revoked.

⁴ If the prohibition from practising a profession has been in force for at least two years, the offender may apply to the competent authority for a modification of the conditions or duration of the prohibition, or to have the prohibition revoked.

⁵ If further offending is considered unlikely and the offender has provided reasonable compensation for the loss, damage or injury caused, the competent authority shall revoke the prohibition from practising a profession in cases falling under paragraph 3 or 4.

Art. 67b

3. Disqualification from driving

If the offender has used a motor vehicle in order to commit a felony or misdemeanour and where there is a risk of re-offending, the court, in addition to imposing a sentence or measure under Articles 59–64, may order that the offender forfeit his provisional or full driving licence for a period of between one month and five years.

Art. 68

4. Publication of the judgment

¹ If publication of a criminal judgment is required in the public interest, or in the interests of the person harmed or of the complainant, the court shall order publication at the expense of the offender.

² If publication of an acquittal or of a ruling of the prosecution service abandoning proceedings is required in the public interest, or in the interests of the acquitted person or former suspect, the court shall order publication at State expense or at the expense of the complainant.

³ Publication shall be made in the interests of the person harmed, complainant, acquitted person or former suspect only if such persons so request.

⁴ The court shall decide on the form and extent of publication.

Art. 69

5. Forfeiture.
a. Forfeiture of dangerous objects

¹ The court shall, irrespective of the criminal liability of any person, order the forfeiture of objects that have been used or were intended to be used for the commission of an offence or that have been produced as a result of the commission of an offence in the event that such objects constitute a future danger to public safety, morals or public order.

2 The court may order that the objects forfeited be rendered unusable or be destroyed.

Art. 70

b. Forfeiture of
assets.
Principles

1 The court shall order the forfeiture of assets that have been acquired through the commission of an offence or that are intended to be used in the commission of an offence or as payment therefor, unless the assets are passed on to the person harmed for the purpose of restoring the prior lawful position.

2 Forfeiture is not permitted if a third party has acquired the assets in ignorance of the grounds for forfeiture, provided he has paid a consideration of equal value therefor or forfeiture would cause him to endure disproportionate hardship.

3 The right to order forfeiture is limited to seven years; if, however, the prosecution of the offence is subject to a longer limitation period, this period also applies to the right to order forfeiture.

4 Official notice must be given of forfeiture. The rights of persons harmed or third parties expire five years after the date on which official notice is given.

5 If the amount of the assets to be forfeited cannot be ascertained, or may be ascertained only by incurring a disproportionate level of trouble and expense, the court may make an estimate.

Art. 71

Equivalent claim

1 If the assets subject to forfeiture are no longer available, the court may uphold a claim for compensation by the State in respect of a sum of equivalent value, which claim may be enforced against a third party only if he is not excluded by Article 70 paragraph 2.

2 The court may dismiss an equivalent claim in its entirety or in part if the claim is likely to be unrecoverable or if the claim would seriously hinder the rehabilitation of the person concerned.

3 The investigating authority may seize assets of the person concerned with a view to the enforcement of an equivalent claim. Such seizure does not accord the State preferential rights in the enforcement of the equivalent claim.

Art. 72

Forfeiture of
assets of a
criminal
organisation

The court shall order the forfeiture of all assets that are subject to the power of disposal of a criminal organisation. In the case of the assets of a person who participates in or supports a criminal organisation (Art. 260^{ter}), it is presumed that the assets are subject to the power of disposal of the organisation until the contrary is proven.

6. Use for the benefit of the person harmed

Art. 73

¹ If as a result of a felony or misdemeanour a person has suffered harm and is not entitled to benefits under an insurance policy, and if it is anticipated that the offender will not pay damages or satisfaction, the court shall award the person harmed, at his request, a sum of money up to the amount of damages or satisfaction set by a court or agreed in a settlement with the person harmed and obtained from:

- a. the monetary penalty or fine paid by the offender;
- b. objects and assets that have been forfeited, or the proceeds of their sale after deduction of expenses;
- c. compensatory claims;
- d. the amount of the good behaviour bond.

² The court may order such an award only if the person harmed assigns the corresponding element of his claim to the State.

³ The cantons shall provide a simple and quick procedure for cases where their courts are not entitled to make an award of this nature in a criminal judgment.

Title Four: Execution of Custodial Sentences and Custodial Measures

Art. 74

1. Principles

The human dignity of the prison inmates or of the inmates of an institution for the execution of measures must be respected. Their rights may only be limited to the extent that that is required for the deprivation of their liberty and their co-existence in the penal institution.

Art. 75

2. Execution of custodial sentences.
Principles

¹ The execution of sentences must encourage an improvement in the social behaviour of the prison inmates, and in particular their ability to live their lives without offending again. The conditions under which sentences are executed must correspond as far as possible with those of normal life, guarantee the supervision of the prison inmates, counteract the harmful consequences of the deprivation of liberty and take appropriate account of the need to protect the general public, the institution staff and other inmates.

² ...³⁹

³⁹ Repealed by Annex 1 No II 8 of the Criminal Procedure Code of 5 Oct. 2007, with effect from 1 Jan. 2011 (AS 2010 1881; BBl 2006 1085).

³ The institution rules shall provide that a sentence management plan be drawn up in consultation with the prison inmate. This plan shall in particular contain details of the supervision offered, the opportunities to work and receive basic or advanced training, making reparation, relations with the outside world and preparations for release.

⁴ The prison inmate must actively cooperate in resocialisation efforts and the preparations for release.

⁵ Account shall be taken of the gender-specific concerns and needs of the prison inmates.

⁶ If the prison inmate is released on parole or granted final release and it subsequently comes to light that on his release he was subject to another executable judgment imposing a custodial sentence, execution of that custodial sentence shall be waived if:

- a. it was not executed concurrently with the other custodial sentence for a reason within the control of the executive authorities;
- b. the prison inmate was able to assume in good faith that on his release he was not subject to another executable judgment imposing a custodial sentence; and
- c. the reintegration of the prison inmates would be prejudiced.

Art. 75a⁴⁰

Special security
measures

¹ The Commission under Article 62*d* paragraph 2 shall with a view to a transfer to an open penal institution and the authorisation of a relaxation in the execution of the sentence assess the danger to the community of the offender if:

- a. he has committed a felony in terms of Article 64 paragraph 1; and
- b. the executive authority cannot satisfactorily answer the question of whether he is a danger to other prison inmates.

² Relaxation of the execution of the sentence involves easing the regime for the deprivation of liberty, in particular by means of a transfer to an open institution, the granting of release on temporary licence, the authorisation of day release employment or of external accommodation and the granting of parole.

³ Danger to the community shall be assumed if there is a risk that the prison inmate will abscond and commit a further offence that severely prejudices the physical, psychological or sexual integrity of another person.

⁴⁰ Amended in accordance with No I of the Federal Act of 24 March 2006 (Revision of the Law on Sanctions and the Register of Convictions), in force since 1 Jan. 2007 (AS 2006 3539 3544; BBl 2005 4689).

	Art. 76
Place of execution	¹ Custodial sentences shall be executed in a secure or open penal institution.
	² The prison inmate shall be admitted to a secure penal institution or to the secure section of an open penal institution if there is a risk that that he will abscond or it is expected that he will commit further offences.

	Art. 77
Normal execution	The prison inmate shall normally spend his working, rest and leisure time in the institution.

	Art. 77a
Day release employment and external accommodation	¹ The custodial sentence shall be executed in the form of day release employment if the prison inmate has served part of the custodial sentence, normally a minimum one half, and it is not expected that he will abscond or commit further offences.
	² In day release employment, the prison inmate works outside the institution and spends his rest and leisure time in the institution. The change to day release employment normally takes place following an appropriate period spent in an open institution or the open section of a secure institution. Work outside the institution may also include housework and caring for children.
	³ If the prison inmate proves himself to be of good behaviour in day release employment, the further execution of the sentence shall take the form of external accommodation and day release employment. Here the prison inmate lives and works outside the institution, but remains under the supervision of the executive authority.

	Art. 77b
Semi-detention	A custodial sentence of from six months to one year shall be executed in the form of semi-detention if it is not expected that the prison inmate will abscond or commit further offences. The prison inmate continues his work or education and training outside the institution and spends his rest and leisure time in the institution. The supervision of the offender required for the duration of the period of execution must be guaranteed.

	Art. 78
Solitary confinement	Solitary confinement in the form of uninterrupted separation from other prison inmates may only be ordered: <ol style="list-style-type: none"> a. for a maximum of one week at the start of the sentence in order to initiate the execution of the sentence; b. for the protection of the prison inmate or of third parties;

- c. as a disciplinary sanction.

Art. 79

Form of execution of short custodial sentences

¹ Custodial sentences of up to six months and sentences of which less than six months remains after account is taken of pre-trial detention shall normally be executed in the form of the semi-detention.

² Custodial sentences not exceeding four weeks may on request be served on a daily basis. The sentence is divided into several instalments that are served on days when the offender is not working or is on holiday.

³ Semi-detention and sentences served on a daily basis may also be executed in the special section of a pre-trial detention institution.

Art. 80

Other forms of sentence execution

¹ A departure from the rules governing the execution of sentences in favour of the prison inmates may be permitted:

- a. if the state of health of the prison inmates so requires;
- b. in the event of pregnancy, childbirth and for the time immediately after childbirth;
- c. to enable the mother and infant to be accommodated together, provided this is also in the interests of the child.

² If the sentence is not served in a penal institution, but in another appropriate institution, the prison inmate shall be subject to the regulations of that institution unless the executive authority orders otherwise.

Art. 81

Work

¹ The prison inmate is obliged to work. Wherever possible, the work shall be appropriate to his skills, education and training and his interests.

² If he consents to do so, the prison inmate may work for a private employer.

Art. 82

Basic and advanced training

Where he shows the required aptitude and the possibility exists, the prison inmate shall be given the opportunity to undergo basic and advanced training appropriate to his skills.

Art. 83

Wages

¹ The prison inmate shall receive a wage for his work based on his performance and according to the circumstances.

² The prison inmate may freely dispose of only part of his wage while serving his sentence. The remaining part shall be withheld until the inmate has been released. The wage may neither be pledged, seized nor included in an insolvent estate. Any assignment or pledge of the wage is null and void.

³ If the prison inmate participates in basic or advanced training instead of work in accordance with his sentence management plan, he shall receive appropriate remuneration.

Art. 84

Relations
with the outside
world

¹ The prison inmate has the right to receive visitors and to cultivate contacts with persons outside the institution. Contact with close relatives and friends shall be facilitated.

² Contact may be monitored and for the preservation of order and security in the penal institution it may be restricted or prohibited. The supervision of visits is not permitted without the knowledge of those concerned. The foregoing does not apply to procedural measures in order to secure evidence for the purposes of a prosecution.

³ Clerics, doctors, attorneys, notaries and guardians as well as persons with comparable duties may be permitted to communicate freely with the prison inmates subject to the general institution rules.

⁴ Contact with defence attorneys must be permitted. Visits from the defence attorney may be supervised but conversations may not be listened in on. Inspecting the content of correspondence and attorneys' documents is not permitted. Contact with attorneys may be prohibited by the competent authority in the event of abuse.

⁵ Communications with the supervisory authorities may not be monitored.

⁶ The prison inmate shall be granted release on temporary licence to an appropriate extent in order to cultivate relations with the outside world, prepare for his release or where there are special circumstances, provided his conduct in custody does not preclude this and there is no risk that he will abscond or commit further offences.

^{6bis} Offenders subject to indefinite incarceration shall not be granted release on temporary licence or other relaxations of the execution of the sentence during the sentence served prior to incarceration.⁴¹

⁷ Article 36 of the Vienna Convention of 24 April 1963⁴² on Consular Relations and other regulations under international law on visits and correspondence that are binding on Switzerland are reserved.

⁴¹ Inserted by No I of the Federal Act of 21 Dec. 2007 (Indefinite Incarceration of Extremely Dangerous Offenders), in force since 1 Aug. 2008 (AS 2008 2961 2964; BBl 2006 889).

⁴² SR 0.191.02

Searches and inspections

Art. 85

¹ The personal effects and the accommodation of the prison inmate may be searched in the interests of maintaining order and security in the penal institution.

² A prison inmate who is suspected of concealing unpermitted articles about his person or in his body, may be subjected to a body search. The search must be conducted by a person of the same gender. If the removal of clothing is required, this must be carried out in the absence of other prison inmates. Searches of body cavities must be carried out by a doctor or other medically qualified staff.

Parole.
a. Granting of parole

Art. 86

¹ If the prison inmate has served two thirds of his sentence, provided this amounts to at least three months, he shall be released on parole by the competent authority if this is justified by his conduct while in custody and it is not expected that he will commit further felonies or misdemeanours.

² The competent authority shall assess ex officio whether the inmate may be released on parole. It shall obtain a report from the institution board. The prison inmate shall be granted a hearing.

³ If parole is refused, the competent authority must reassess the question of whether parole may be granted at least once each year.

⁴ If the prison inmate has served half of his sentence, provided this amounts to at least three months, he may be released on parole by way of exception, if exceptional personal circumstances justify this.

⁵ In the case of persons serving a life sentence, parole under paragraph 1 is possible at the earliest after 15 years, and under paragraph 4 at the earliest after ten years.

b. Probationary period

Art. 87

¹ A person released on parole shall be made subject to a probationary period of a duration that corresponds to the remainder of his sentence. The period shall however amount to at least one year and no more than five years.

² The executive authority shall normally order probation assistance for the duration of the probationary period. It may impose conduct orders on the person released on parole.

³ If parole is granted to an inmate serving a custodial sentence for an offence mentioned in Article 64 paragraph 1, and if on expiry of the probationary period a continuation of the probation assistance or the conduct orders appear to be required in order to reduce the risk of further offences of this type being committed, the court may at the request of the executive authority extend the probation assistance or

the conduct orders in each case by one to five years or impose a new conduct order for this period. A recall to custody in accordance with Article 95 paragraph 5 is not possible in such cases.

Art. 88

c. Successful completion of probation

If the person released on parole is of good behaviour throughout the probationary period, he shall be granted final release.

Art. 89

d. Breach of probation

¹ If a person released on parole commits a felony or misdemeanour during the probationary period, the court judging the new offence shall order his recall to custody.

² If, despite the commission of a felony or misdemeanour during the probationary period, it is not expected that the offender will commit further offences, the court shall dispense with a recall to custody. It may admonish the offender and extend the probationary period by no more than half of the period originally fixed by the competent authority. If the extension is ordered after the expiry of the original probationary period, it begins on the day on which it is ordered. The provisions on probation assistance and conduct orders apply (Art. 93–95).

³ If a person released on parole fails to comply with the conditions of probation assistance or disregards the conduct orders, Article 95 paragraphs 3–5 applies.

⁴ A recall to custody may not be ordered if three years have elapsed since the expiry of the probationary period.

⁵ Any period of pre-trial detention that the offender has served during the recall to custody proceedings shall be taken into account in the remainder of his sentence.

⁶ If the requirements for an unsuspended custodial sentence are fulfilled due to the new offence and if this coincides with the remainder of the sentence that must be executed by the recall to custody, the court shall impose a cumulative sentence in application of Article 49 a. The rules on parole again apply to this sentence. If only the remainder of the sentence is executed, Article 86 paragraphs 1–4 applies.

⁷ If the remainder of a sentence that must be executed in accordance with a decision on recall to custody coincides with the execution of a measure under Articles 59–61, Article 57 paragraphs 2 and 3 applies.

Art. 90

3. Execution of measures

¹ A person subject to the execution of a measure under Articles 59–61, may only be accommodated without interruption separately from the

other inmates of an institution for the execution of measures if this is essential:

- a. as a temporary therapeutic measure;
- b. for the protection of other inmates of the institution or of third parties;
- c. as a disciplinary sanction.

² At the start of the execution of the measure, a sentence management plan shall be drawn up in consultation with the inmate or his legal representative. This shall in particular include details of the treatment of the inmate's mental disorder, dependence or developmental disorder and on measures to prevent the endangerment of others.

^{2bis} Measures under Articles 59–61 and 64 may be executed in the form of external accommodation and day release employment if there is a justified opinion that this will significantly contribute to the aim of the measure being achieved, and if there is no risk that the inmate will abscond or will commit further offences. Article 77a paragraphs 2 and 3 applies by analogy.⁴³

³ If the inmate is able to work, he shall be required to work to the extent that his in-patient treatment or care requires or permits. Articles 81–83 apply in an analogous manner.

⁴ Article 84 applies by analogy to the relations of the inmates of an institution for the execution of measures with the outside world, unless additional restrictions are required for reasons relating to the in-patient treatment.

^{4bis} Article 75a applies by analogy to admission to an open institution and to the authorisation of a relaxation in the measures regime.⁴⁴

^{4ter} During indefinite incarceration, it is not permitted to authorise release on temporary licence or a relaxation of the sentence regime.⁴⁵

⁵ Article 85 applies by analogy to searches and inspections.

Art. 91

¹ Disciplinary sanctions may be imposed on prison inmates and inmates of an institution for the execution of measures who are guilty of infringing the institution regulations or the sentence management plan.

4. General provisions.
Disciplinary regulations

⁴³ Inserted by No I of the Federal Act of 24 March 2006 (Revision of the Law on Sanctions and the Register of Convictions), in force since 1 Jan. 2007 (AS 2006 3539 3544; BBl 2005 4689).

⁴⁴ Inserted by No I of the Federal Act of 24 March 2006 (Revision of the Law on Sanctions and the Register of Convictions), in force since 1 Jan. 2007 (AS 2006 3539 3544; BBl 2005 4689).

⁴⁵ Inserted by No I of the Federal Act of 21 Dec. 2007 (Indefinite Incarceration of Extremely Dangerous Offenders), in force since 1 Aug. 2008 (AS 2008 2961 2964; BBl 2006 889).

² Disciplinary sanctions are:

- a. a reprimand;
- b. the temporary withdrawal or restriction of the right to use money, participate in recreational activities or have external contacts;
- c.⁴⁶ a fine; and
- d.⁴⁷ solitary confinement as an additional restriction of liberty.

³ The cantons shall enact disciplinary regulations applicable to the execution of sentences and measures. The regulations shall detail the disciplinary offences, the sanctions and how they are fixed, and regulate the procedure.

Art. 92

Interruption of execution

The execution of sentences and measures may be interrupted for good cause.

Title Five: Probation Assistance, Conduct Orders and Voluntary Social Supervision

Art. 93

Probation assistance

¹ Probation assistance is intended to protect the probationers from reoffending and enable their social integration. The competent authority for probation assistance shall provide and arrange for the required social and specialist services.

² Persons working in the field of probation assistance must treat matters that come to their knowledge in the course of their work as confidential. They may disclose information on the personal circumstances of a probationer to third parties only if the probationer or the person in charge of probation assistance has consented in writing.

³ The authorities for the administration of criminal justice may obtain a report on the probationer from the competent authority for probation assistance.

Art. 94

Conduct orders

The conduct orders that the court or the executive authority may impose on the offender for duration of the probationary period shall

⁴⁶ Inserted by No I of the Federal Act of 24 March 2006 (Revision of the Law on Sanctions and the Register of Convictions), in force since 1 Jan. 2007 (AS 2006 3539 3544; BBl 2005 4689).

⁴⁷ Originally let. c.

relate in particular to the practice of a profession, place of residence, driving motor vehicles, reparation and medical and psychological therapy.

Art. 95

General
provisions

¹ Prior to making their decision on probation assistance and conduct orders, the court and the executive authority may obtain a report from the authority responsible for supervising the probation assistance and the conduct orders. The person concerned may state his opinion on the report. Differences of opinion must be recorded in the report.

² The ordering of probation assistance and conduct orders must be noted and justified in the judgment or the decision.

³ If the offender fails to comply with the conditions of probation assistance or disregards the conduct orders or if the probation assistance or conduct orders cannot be implemented or are no longer required, the competent authority shall submit a report to the court or the authorities responsible for the execution of sentences and measures.

⁴ The court or the executive authority may in the cases mentioned in paragraph 3:

- a. extend the probationary period by one half;
- b. revoke or reorganise the probation assistance;
- c. modify or revoke the conduct orders or issue new conduct orders.

⁵ The court may in the cases in paragraph 3 revoke the suspended sentence or order the recall to custody for the execution of the sentence or measure if it is seriously expected that the offender will commit further offences.

Art. 96

Social
assistance

The cantons shall guarantee the provision of social assistance for the duration of the criminal proceedings and of the execution of the sentence which may be claimed voluntarily.

Title Six: Limitation

Art. 97

1. Limitation of
prosecution
rights.
Periods

¹ The right to prosecute is subject to time limit of:

- a. 30 years if the offence is punishable by a custodial sentence of life;

- b. 15 years, if the offence is punishable by a custodial sentence of more than three years;
- c. seven years, if the offence is punishable by a different penalty.

² In the case of sexual acts with children (Art. 187) and dependent minors (Art. 188) and in the case of offences under Articles 111, 113, 122, 182, 189–191 and 195 involving a child under 16, the limitation period in each case runs at least until the victim has attained the age of 25.⁴⁸

³ If a judgment is issued by a court of first instance before expiry of the limitation period, the time limit no longer applies.

⁴ The limitation of the right to prosecute in the case of sexual acts with children (Art. 187) and dependent minors (Art. 188) and offences under Articles 111–113, 122, 182, 189–191 and 195 involving a child under 16 is governed by paragraphs 1–3 if the offence was committed before the amendment of 5 October 2001⁴⁹ came into force and the limitation of the right to prosecute had not yet taken effect.⁵⁰

Art. 98

Commencement The limitation period begins:

- a. on the day on which the offender committed the offence;
- b. on the day on which the final act was carried out if the offence consists of a series of acts carried out at different times;
- c. on the day on which the criminal conduct ceases if the criminal conduct continues over a period of time.

Art. 99

2. Limitation period for the execution of a sentence.
Periods

- ¹ The right to execute a sentence is subject to a limitation period of:
- a. 30 years if a custodial sentence of life has been imposed;
 - b. 25 years if a custodial sentence of ten or more years has been imposed;
 - c. 20 years if a custodial sentence at least five and less than ten years has been imposed;

⁴⁸ Amended in accordance with Art. 2 No 1 of the Federal Decree of 24 March 2006 on the Approval and Implementation of the Optional Protocol of 25 May 2000 to the Convention on the Rights of the Child, on the Sale of Children, Child Prostitution and Child Pornography, in force since 1 Dec. 2006 (AS **2006** 5437 5440; BBl **2005** 2807).

⁴⁹ AS **2002** 2993

⁵⁰ Amended in accordance with Art. 2 No 1 of the Federal Decree of 24 March 2006 on the Approval and Implementation of the Optional Protocol of 25 May 2000 to the Convention on the Rights of the Child, on the Sale of Children, Child Prostitution and Child Pornography, in force since 1 Dec. 2006 (AS **2006** 5437 5440; BBl **2005** 2807).

- d. 15 years, if a custodial sentence of more than one and less than five years has been imposed;
 - e. five years if any other sentence has been imposed.
- 2 The limitation period for a custodial sentence shall be extended:
- a. by the time that the offender spends serving without interruption that or any other custodial sentence or measure that is executed immediately beforehand;
 - b. by the length of the probationary period in the case of release on parole.

Art. 100

Commencement The limitation period shall begin on the day on which the judgment becomes legally enforceable, and in the case of suspended sentences or the execution of a measure, on the day on which the execution of the penalty is ordered.

Art. 101

3. Exclusion from limitation

- 1 There is no limitation of the right to prosecute the offences of:
- a. genocide (Art. 264);
 - b. crimes against humanity (Art. 264a para. 1 and 2);
 - c. war crimes (Art. 264c para. 1–3, 264d para. 1 and 2, 264e para. 1 and 2, 264f, 264g para. 1 and 2 and 264h);
 - d. felonies that have caused or threatened to cause danger to life and limb to a large number of persons as a method of extortion or duress, in particular through the use of means of mass destruction, the causing of catastrophes, or as part of a hostage taking offence.⁵¹

2 If the right to prosecute the offence would have been time barred had Articles 97 and 98 applied, the court may in its discretion impose a more lenient penalty.

3 Paragraphs 1 letters a, c and d and paragraph 2 apply if the right to prosecute or execute the sentence had not been time barred by 1 January 1983 in accordance with the law applicable until that point in time. Paragraph 1 letter b applies if the right to prosecute or execute the penalty is not time barred under the previous law when the Amendment of 18 June 2010 to this Code comes into force.⁵²

⁵¹ Amended in accordance with No I 1 of the Federal Act of 18 June 2010 on the Amendment of Federal Legislation in Implementation of the Rome Statute of the International Criminal Court, in force since 1 Jan. 2011 (AS 2010 4963; BBl 2008 3863).

⁵² Amended in accordance with No I 1 of the Federal Act of 18 June 2010 on the Amendment of Federal Legislation in Implementation of the Rome Statute of the International Criminal Court, in force since 1 Jan. 2011 (AS 2010 4963; BBl 2008 3863).

Title Seven: Corporate Criminal Liability

Art. 102

Liability under
the criminal law

¹ If a felony or misdemeanour is committed in an undertaking in the exercise of commercial activities in accordance with the objects of the undertaking and if it is not possible to attribute this act to any specific natural person due to the inadequate organisation of the undertaking, then the felony or misdemeanour shall be attributed to the undertaking. In such cases, the undertaking shall be liable to a fine not exceeding 5 million francs.

² If the offence committed falls under Articles 260^{ter}, 260^{quinquies}, 305^{bis}, 322^{ter}, 322^{quinquies} or 322^{septies} paragraph 1 or is an offence under Article 4a paragraph 1 letter a of the Federal Act of 19 Dec. 1986⁵³ on Unfair Competition, the undertaking shall be penalised irrespective of the criminal liability of any natural persons, provided the undertaking is responsible for failing to take all the reasonable organisational measures that were required in order to prevent such an offence.⁵⁴

³ The court shall assess the fine in particular in accordance with the seriousness of the offence, the seriousness of the organisational inadequacies and of the loss or damage caused, and based on the economic ability of the undertaking to pay the fine.

⁴ Undertakings within the meaning of this title are:

- a. any legal entity under private law;
- b. any legal entity under public law with exception of local authorities;
- c. companies;
- d. sole proprietorships⁵⁵.

Art. 102a⁵⁶

⁵³ SR 241

⁵⁴ Wording in accordance with Art. 2 No 2 of the Federal Decree of 7 Oct. 2005 on the Adoption and Implementation of the Criminal Law Convention and the Additional Protocol of the European Council on Corruption, in force since 1 July 2006 (AS 2006 2371 2374; BBI 2004 6983).

⁵⁵ Terminological footnote relevant to German only.

⁵⁶ Repealed by Annex 1 No II 8 of the Criminal Procedure Code of 5 Oct. 2007, with effect from 1 Jan. 2011 (AS 2010 1881; BBI 2006 1085).

Part Two: Contraventions

Art. 103

Definition Contraventions are acts that are punishable by a fine.

Art. 104

Application of the provisions of the First Part The provisions of the First Part also apply to contraventions, subject to the following changes.

Art. 105

No or conditional applicability

¹ The provisions on suspended and partially suspended sentences (Art. 42 and 43) and on corporate criminal liability (Art. 102 and 102a⁵⁷) do not apply to contraventions.

² Attempt and complicity are offences only in the cases expressly mentioned in this Code.

³ Custodial measures (Art. 59–61 and 64), the prohibition from practising a profession (Art. 67) and the publication of the judgment (Art. 68) are permitted only in the cases expressly mentioned in this Code.

Art. 106

Fines

¹ Unless the law provides otherwise, the maximum amount of a fine is 10,000 francs.

² In its judgment, the court shall impose an alternative custodial sentence of at least one day and a maximum of three months for the event that the fine is wilfully not paid.

³ The court shall determine the fine and the alternative custodial sentence based on the offender's circumstances so that the offender receives the sentence that is commensurate with his culpable conduct.

⁴ On retrospective payment of the fine, the offender shall be released from the alternative custodial sentence.

⁵ Articles 35 and 36 paragraphs 2–5 apply by analogy to execution and conversion.

Art. 107

Community service

¹ The court may with the consent of the offender order up to 360 hours of community service instead of the fine imposed.

² The executive authority shall provide for a period of no more than one year within which the community service must be performed.

⁵⁷ This Art. has been repealed. See now: Art. 112 of the Criminal Procedure Code of 5 Oct. 2007 (SR 312.0).

³ If the offender fails to perform the community service despite being warned of the consequences, the court shall order that the fine be enforced.

Art. 108⁵⁸

Art. 109

Limitation

The right to prosecute and to execute a sentence is subject to a limitation period of three years.

Part Three: Terms and Definitions

Art. 110

¹ *Close relatives* of a person are his or her spouse, registered partner, relatives of direct lineage, full siblings and half siblings, adoptive parents, adoptive siblings and adoptive children.⁵⁹

² *Family members* are persons who live in the same household.

³ *Public officials* are the officials and employees of a public administrative authority or of an authority for the administration of justice as well as persons who hold office temporarily or are employed temporarily by a public administrative authority or by an authority for the administration of justice or who carry out official functions temporarily.

^{3bis} If a provision refers to the term "property", it also applies to animals.⁶⁰

⁴ *Official documents* are written works intended and designed to prove a fact of legal relevance, or indications that are intended to prove such a fact. Recordings on image and data carriers shall be equivalent to a written document, provided that they serve the same purpose.

⁵ *Public deeds* are official documents issued by members of an authority, public officials and holders of public office in the exercise of official powers. Official documents that are issued in private law transactions by the management of commercial companies, state monopoly companies or other public corporations or institutions are not public official documents.

⁶ A *day* has 24 successive hours. The month and the year are calculated according to the calendar.

⁵⁸ This Article contains no provisions for technical drafting reasons. Corrected by the Drafting Committee of the Federal Assembly (Art. 58 para. 1 ParlA – SR 171.10).

⁵⁹ Amended in accordance with Art. 37 No 1 of the Same-Sex Partnership Act of 18 June 2004, in force since 1 Jan. 2007 (SR 211.231).

⁶⁰ AS 2006 3583

7 Pre-trial detention is any form of detention, pre-trial detention, preventive detention or detention pending extradition imposed in criminal proceedings.

Book Two: Specific Provisions

Title One: Offences against Life and Limb

Art. 111

1. Homicide.
Intentional
homicide

Any person who kills a person intentionally, but without fulfilling the special requirements of the following articles, shall be liable to a custodial sentence⁶¹ of not less than five years.

Art. 112⁶²

Murder

Where the offender acts in a particularly unscrupulous manner, in which the motive, the objective or the method of commission is particularly depraved, the penalty shall be a custodial sentence for life or a custodial sentence of not less than ten years.⁶³

Art. 113⁶⁴

Manslaughter

Where the offender acts in a state of extreme emotion that is excusable in the circumstances, or in a state of profound psychological stress, the penalty shall be a custodial sentence from one to ten years.⁶⁵

Art. 114⁶⁶

Homicide at
the request of the
victim

Any person who for commendable motives, and in particular out of compassion for the victim, causes the death of a person at that person's own genuine and insistent request shall be liable to a custodial sentence not exceeding three years or to a monetary penalty⁶⁷.

⁶¹ Term in accordance with No II 1 para. 1 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979). This amendment has been taken into account throughout the Second Book.

⁶² Amended in accordance with No I of the Federal Act of 23 June 1989, in force since 1 Jan. 1990 (AS **1989** 2449 2456; BBl **1985** II 1009).

⁶³ Penalties revised in accordance with No II 1 para. 16 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979).

⁶⁴ Amended in accordance with No I of the Federal Act of 23 June 1989, in force since 1 Jan. 1990 (AS **1989** 2449 2456; BBl **1985** II 1009).

⁶⁵ Penalties revised in accordance with No II 1 para. 16 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979).

⁶⁶ Amended in accordance with No I of the Federal Act of 23 June 1989, in force since 1 Jan. 1990 (AS **1989** 2449 2456; BBl **1985** II 1009).

⁶⁷ Term in accordance with No II 1 para. 2 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979). This amendment has been taken into account throughout the Second Book.

Art. 115

Inciting and
assisting suicide

Any person who for selfish motives incites or assists another to commit or attempt to commit suicide shall, if that other person thereafter commits or attempts to commit suicide, be liable to a custodial sentence not exceeding five years or to a monetary penalty⁶⁸.

Art. 116⁶⁹

Infanticide

If a mother kills her child either during delivery or while she is under the influence of the effects of giving birth, she shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 117

Homicide
through negli-
gence

Any person who causes the death of another through negligence or recklessness shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 118⁷⁰

2. Abortion.
Illegal abortion

¹ Any person who terminates a pregnancy with the consent of the pregnant woman or incites or assists a pregnant woman to terminate her pregnancy without the requirements of Article 119 being fulfilled shall be liable to a custodial sentence not exceeding five years or to a monetary penalty.

² Any person who terminates a pregnancy without the consent of the pregnant woman shall be liable to a custodial sentence of from one⁷¹ to ten years.

³ Any woman who has her pregnancy terminated or otherwise participates in the termination of her pregnancy following the end of the twelfth week since her last period and without the requirements of Article 119 being fulfilled shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

⁴ In cases falling under paragraphs 1 and 3 above, prescription shall take effect after three years.⁷²

⁶⁸ Term in accordance with No II 1 para. 3 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979). This amendment has been taken into account throughout the Second Book.

⁶⁹ Amended in accordance with No I of the Federal Act of 23 June 1989, in force since 1 Jan. 1990 (AS **1989** 2449 2456; BBl **1985** II 1009).

⁷⁰ Amended in accordance with No I of the Federal Act of 23 March 2001 (Abortion), in force since 1 Oct. 2002 (AS **2002** 2989 2992; BBl **1998** 3005 5376).

⁷¹ Term in accordance with No II 1 para. 4 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979). This amendment has been taken into account throughout the Second Book.

⁷² Amended in accordance with No I of the Federal Act of 22 March 2002 (Limitation of the Right to Prosecute), in force since 1 Oct. 2002 (AS **2002** 2986 2988; BBl **2002** 2673 1649).

Legal
abortion**Art. 119**⁷³

¹ The termination of a pregnancy is exempt from penalty in the event that the termination is, in the judgment of a physician, necessary in order to be able to prevent the pregnant woman from sustaining serious physical injury or serious psychological distress. The risk must be greater the more advanced the pregnancy is.

² The termination of a pregnancy is likewise exempt from penalty if, at the written request of a pregnant woman, who claims that she is in a state of distress, it is performed within twelve weeks of the start of the pregnant woman's last period by a physician who is licensed to practise his profession. The physician must have a detailed consultation with the woman prior to the termination and provide her with appropriate counselling.

³ If the woman does not have the capacity to decide, the consent of her legal representative shall be required.

⁴ The cantons shall designate the medical practices and hospitals that fulfil the requirements for the professional conduct of procedures to terminate pregnancy and for the provision of counselling.

⁵ An abortion shall be reported for statistical purposes to the competent health authority, whereby the anonymity of the woman concerned shall be guaranteed and medical confidentiality shall be preserved.

Art. 120⁷⁴Contraventions
by physicians

¹ Any physician who terminates a pregnancy in terms of Article 119 paragraph 2 and who fails, prior to the procedure:

- a. to obtain a written request from the pregnant woman;
- b. to discuss the termination in detail with the pregnant woman and to counsel her, to advise her of the risks of the procedure to her health, and to provide her with a written guide, the receipt of which she must acknowledge with her signature, that contains:
 1. a list of agencies that provide counselling free of charge,
 2. a list of associations and agencies that offer moral and material support, and
 3. information on the possibility of having the child adopted;
- c. to satisfy himself that a pregnant woman under 16 years of age has been in contact with a counselling agency specialised in dealing with young people.

⁷³ Amended in accordance with No 1 of the Federal Act of 23 March 2001 (Abortion), in force since 1 Oct. 2002 (AS **2002** 2989 2992; BBl **1998** 3005 5376).

⁷⁴ Amended in accordance with No 1 of the Federal Act of 23 March 2001 (Abortion), in force since 1 Oct. 2002 (AS **2002** 2989 2992; BBl **1998** 3005 5376).

shall be liable to a fine⁷⁵.

² Any physician who fails to report the termination of a pregnancy to the competent authority in accordance with Article 119 paragraph 5 shall be liable to the same penalty.

Art. 121⁷⁶

Art. 122⁷⁷

3. Assault.
Serious assault

Any person who intentionally inflicts a life-threatening injury on another,

any person who intentionally inflicts serious injury on the person, or on an important organ or limb of another, makes an important organ or limb unusable, makes another permanently unfit for work, infirm or mentally ill, or who disfigures the face of another badly and permanently,

any person who intentionally causes any other serious damage to the person or to the physical or mental health of another,

shall be liable to a custodial sentence not exceeding ten years or to a monetary penalty of not less than 180 daily penalty units.⁷⁸

Art. 123⁷⁹

Common
assault

1. Any person who wilfully causes injury to the person or the health of another in any other way shall on complaint be liable to a custodial sentence not exceeding three years or to a monetary penalty.

In minor cases, the court may impose a reduced penalty (Art. 48a).⁸⁰

2. The penalty shall be a custodial sentence not exceeding three years or a monetary penalty, and the offender shall be prosecuted ex officio,

if he uses poison, a weapon or a dangerous object,

if he commits the act on a person, and in particular on a child, who is unable to defend himself, or is under his protection or in his care.

⁷⁵ Term in accordance with No II 1 para. 5 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS 2006 3459 3535; BBl 1999 1979). This amendment has been taken into account throughout the Second Book.

⁷⁶ Repealed by No I of the Federal Act of 23 March 2001 (Abortion) (AS 2002 2989; BBl 1998 3005 5376).

⁷⁷ Amended in accordance with No I of the Federal Act of 23 June 1989, in force since 1 Jan. 1990 (AS 1989 2449 2456; BBl 1985 II 1009).

⁷⁸ Penalties revised in accordance with No II 1 para. 16 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS 2006 3459 3535; BBl 1999 1979).

⁷⁹ Amended in accordance with No I of the Federal Act of 23 June 1989, in force since 1 Jan. 1990 (AS 1989 2449 2456; BBl 1985 II 1009).

⁸⁰ Amended in accordance with No II 2 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS 2006 3459 3535; BBl 1999 1979).

if he is the spouse of the victim and the act was committed during the marriage or up to one year after divorce,⁸¹

if he is the registered partner of the victim and the offence was committed during the period of the registered partnership or up to a year after its dissolution,⁸² or

if he is the heterosexual or homosexual partner of the victim provided they have at any time cohabited and the act was committed at that time or up to one year after separation.⁸³

Art. 124⁸⁴

Art. 125

Assault through negligence

¹ Any person who causes injury to the person or the health of another through negligence shall on complaint be liable to a custodial sentence not exceeding three years or to a monetary penalty.⁸⁵

² If the injury is serious, the offender shall be prosecuted ex officio.

Art. 126

Acts of aggression

¹ Any person who commits acts of aggression against another that do not cause any injury to the person or health shall on complaint be liable to a fine.

² The offender shall be prosecuted ex officio if he commits the offence repeatedly:

- a. on of a person under his protection or in his care, and in particular on a child;
- b. on his spouse during the marriage or up to a year after divorce; or
- b^{bis}.⁸⁶ on his registered partner during the period of the registered partnership or up to a year after its dissolution; or

⁸¹ Inserted by No I of the Federal Act of 3 Oct. 2003 (Prosecution of Offences within Marriage or Registered Partnerships), in force since 1 April 2004 (AS **2004** 1403 1407; BBl **2003** 1909 1937).

⁸² Inserted by Annex No 18 of the Same-Sex Partnership Act of 18 June 2004, in force since 1 Jan. 2007 (SR **211.231**).

⁸³ Originally para. 4. Inserted by No I of the Federal Act of 3 Oct. 2003 (Prosecution of Offences within Marriage or Registered Partnerships), in force since 1 April 2004 (AS **2004** 1403 1407; BBl **2003** 1909 1937).

⁸⁴ Repealed by No I of the Federal Act of 23 June 1989 (AS **1989** 2449; BBl **1985** II 1009).

⁸⁵ Term in accordance with No II 1 para. 2 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979). This amendment has been taken into account throughout the Second Book.

⁸⁶ Inserted by Annex No 18 of the Same-Sex Partnership Act of 18 June 2004, in force since 1 Jan. 2007 (SR **211.231**).

- c. on his heterosexual or homosexual partner provided they have at any time cohabited and the act was committed at that time or up to one year after separation.⁸⁷

Art. 127⁸⁸

4. Endangering the life or health of another.
Abandonment

Any person who exposes a helpless person under his protection or care to a life-threatening danger or to a serious and immediate danger to health, or abandons the person to such a danger shall be liable to a custodial sentence not exceeding five years or to a monetary penalty.

Art. 128⁸⁹

Failure to offer aid in an emergency

Any person who fails to offer aid to another whom he has injured or to another who is in immediate life-threatening danger, in circumstances where the person either could reasonably have been expected to offer aid,

any person who prevents or hinders others from offering aid,

shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 128^{bis90}

False alarm

Any person who wilfully and without good reason alerts a public or charitable security, rescue or emergency service, and in particular the police, fire or ambulance services shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 129⁹¹

Endangering life

Any person who unscrupulously places another in immediate life-threatening danger shall be liable to a custodial sentence not exceeding five years or to a monetary penalty.

⁸⁷ Inserted by No I of the Federal Act of 23 June 1989 (AS **1989** 2449; BBl **1985** II 1009). Amended in accordance with No I of the Federal Act of 3 Oct. 2003 (Prosecution of Offences within Marriage or Registered Partnerships), in force since 1 April 2004 (AS **2004** 1403 1407; BBl **2003** 1909 1937).

⁸⁸ Amended in accordance with No I of the Federal Act of 23 June 1989, in force since 1 Jan. 1990 (AS **1989** 2449 2456; BBl **1985** II 1009).

⁸⁹ Amended in accordance with No I of the Federal Act of 23 June 1989, in force since 1 Jan. 1990 (AS **1989** 2449 2456; BBl **1985** II 1009).

⁹⁰ Inserted by No I of the Federal Act of 17 June 1994, in force since 1 Jan. 1995 (AS **1994** 2290 2307; BBl **1991** II 969).

⁹¹ Amended in accordance with No I of the Federal Act of 23 June 1989, in force since 1 Jan. 1990 (AS **1989** 2449 2456; BBl **1985** II 1009).

Art. 130–132⁹²**Art. 133**⁹³

Brawling

¹ Any person who participates in a brawl that results in the death of or in an assault causing injury shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

² A participant in a brawl who acts exclusively in self-defence or in order to separate the other participants does not commit a criminal offence.

Art. 134⁹⁴

Attack

Any person who participates in an attack on one or more other persons which causes death or injury to a person attacked or another shall be liable to a custodial sentence not exceeding five years or to a monetary penalty⁹⁵.

Art. 135⁹⁶Representations
of acts of
violence

¹ Any person who produces, imports, stores, markets, promotes, exhibits, offers, shows, makes accessible or makes available sound, film or video recordings or other products in which acts of extreme violence against persons or animals are portrayed, without reasonable cultural or scientific grounds therefor, and in doing so seriously offends basic human dignity shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

^{1bis} Any person who acquires, procures by electronic or any other means, or possesses the recordings or other products mentioned in paragraph 1 above, provided these portray acts of violence against persons or animals shall be liable to a custodial sentence not exceeding one year or to a monetary penalty^{97, 98}

² The articles concerned shall be forfeited.

⁹² Repealed by No I of the Federal Act of 23 June 1989 (AS **1989** 2449; BBl **1985** II 1009).

⁹³ Amended in accordance with No I of the Federal Act of 23 June 1989, in force since 1 Jan. 1990 (AS **1989** 2449 2456; BBl **1985** II 1009).

⁹⁴ Amended in accordance with No I of the Federal Act of 23 June 1989, in force since 1 Jan. 1990 (AS **1989** 2449 2456; BBl **1985** II 1009).

⁹⁵ Term in accordance with No II 1 para. 6 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979). This amendment has been taken into account throughout the Second Book.

⁹⁶ Amended in accordance with No I of the Federal Act of 23 June 1989, in force since 1 Jan. 1990 (AS **1989** 2449 2456; BBl **1985** II 1009).

⁹⁷ Penalties revised in accordance with No II 1 para. 16 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979).

⁹⁸ Inserted by No I of the Federal Act of 5 Oct. 2001 (Offences against Sexual Integrity; Prohibition of the Possession of hard-core Pornography), in force since 1 April 2002 (AS **2002** 408 409; BBl **2000** 2943).

³ If the offender acts for financial gain, he shall be liable to a custodial sentence not exceeding three years or to a monetary penalty. The custodial sentence must be combined with a monetary penalty.⁹⁹

Art. 136¹⁰⁰

Administering substances capable of causing injury to children

Any person who administers or makes available for consumption to children under the age of 16 alcoholic beverages or other substances in such quantities as may endanger their health shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Title Two:¹⁰¹ Offences against Property

Art. 137

1. Offences against property. Unlawful appropriation

1. Any person who for his own or for another's unlawful gain appropriates moveable property which belongs to another shall, unless the special requirements of Articles 138-140 apply, be liable to a custodial sentence not exceeding three years or to a monetary penalty.

2. If the offender has found the property or if the property has inadvertently come into his possession,

if he does not act for financial gain or

if he acts only to the detriment of a relative or family member,

the offence is prosecuted only on complaint.

Art. 138

Misappropriation

1. Any person who for his own or another's unlawful gain appropriates moveable property belonging to another but entrusted to him, any person who makes unlawful use of financial assets entrusted to him for his own or another's benefit,

shall be liable to a custodial sentence not exceeding five years or to a monetary penalty.

Misappropriation to the detriment of a relative or family member is prosecuted only on complaint.

2. Any person who commits the foregoing offence in his capacity as a member of a public authority, or as a public official, guardian, adviser,

⁹⁹ Term in accordance with No II 1 para. 7 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS 2006 3459 3535; BBl 1999 1979). This amendment has been taken into account throughout the Second Book.

¹⁰⁰ Amended in accordance with No I of the Federal Act of 20 March 2008, in force since 1 July 2011 (2009 2623, AS 2011 2559; BBl 2006 8573 8645).

¹⁰¹ Amended in accordance with No I of the Federal Act of 17 June 1994, in force since 1 Jan. 1995 (AS 1994 2290 2307; BBl 1991 II 969).

professional asset manager, or in the practice of a profession or a trade or the execution of a commercial transaction for which he has been authorised by a public authority, shall be liable to a custodial sentence not exceeding ten years or to a monetary penalty.¹⁰²

Art. 139

Theft

1. Any person who for his own or for another's unlawful gain, appropriates moveable property belonging to another person with the object of permanently depriving the owner of it shall be liable to a custodial sentence not exceeding five years or to a monetary penalty.

2. The offender shall be liable to a custodial sentence not exceeding ten years or to a monetary penalty of not less than 90 daily penalty units¹⁰³ if he commits theft on a regular basis for financial gain.

3. The offender shall be liable to a custodial sentence not exceeding ten years or to a monetary penalty of not less than 180 daily penalty units¹⁰⁴,

if he commits theft as a member of a group that has been formed for the purpose of carrying out repeated acts of robbery or theft,

if he carries with him a firearm or other dangerous weapon for the purpose of committing theft

or if he represents a particular danger in any other way due to the manner in which he commits theft.

4. Theft to the detriment of a relative or family member is prosecuted only on complaint.

Art. 140

Robbery

1. Any person who commits theft by using force on another, threatening another with imminent danger to life or limb, or making another incapable of resistance shall be liable to a custodial sentence not exceeding ten years or to a monetary penalty of not less than 180 daily penalty units.

Any person who, when caught in the act of committing theft, commits any of the coercive acts mentioned in the foregoing paragraph in order to retain the stolen property shall be liable the same penalties.

¹⁰² Term in accordance with No II 1 para. 8 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979). This amendment has been taken into account throughout the Second Book.

¹⁰³ Term in accordance with No II 1 para. 9 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979). This amendment has been taken into account throughout the Second Book.

¹⁰⁴ Term in accordance with No II 1 para. 10 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979). This amendment has been taken into account throughout the Second Book.

2. The offender shall be liable to a custodial sentence of not less than one year¹⁰⁵ if he carries with him a firearm or other dangerous weapon for the purpose of committing robbery.

3. The offender shall be liable to a custodial sentence of not less than two years,

if he commits robbery as a member of a group that has been formed for the purpose of carrying out repeated acts of robbery or theft,

or if he represents a particular danger in any other way due to the manner in which he commits robbery.

4. The penalty shall be a custodial sentence of not less than five years, if the offender endangers the life of the victim, commits a serious assault on the victim or otherwise treats the victim with cruelty.

Art. 141

Removal of property

Any person who takes moveable property from the person entitled to it to the serious detriment of that person but without intending to permanently deprive the entitled person of it shall on complaint be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 141^{bis}

Unlawful use of financial assets

Any person who for his own or another's benefit unlawfully uses financial assets that have inadvertently come into his possession shall on complaint be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 142

Unlawful abstraction of energy

¹ Any person who unlawfully obtains energy from an installation that serves to exploit natural power, and in particular an electrical installation shall on complaint be liable to a custodial sentence not exceeding three years or to a monetary penalty.

² If the offender acts for his own or for another's unlawful gain, he shall be liable to a custodial sentence not exceeding five years or to a monetary penalty.

Art. 143

Unauthorised obtaining of data

¹ Any person who for his own or for another's unlawful gain obtains for himself or another data that is stored or transmitted electronically or in some similar manner and which is not intended for him and has

¹⁰⁵ Term in accordance with No II 1 para. 12 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS 2006 3459 3535; BBl 1999 1979).

been specially secured to prevent his access shall be liable to a custodial sentence not exceeding five years or to a monetary penalty.

² The unauthorised obtaining of data to the detriment of a relative or family member is prosecuted only on complaint.

Art. 143^{bis106}

Unauthorised
access to a data
processing
system

¹ Any person who obtains unauthorised access by means of data transmission equipment to a data processing system that has been specially secured to prevent his access shall on complaint be liable to a custodial sentence not exceeding three years or to a monetary penalty.

² Any person who markets or makes accessible passwords, programs or other data that he knows or must believe are intended to be used to commit an offence under paragraph 1 shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 144

Criminal damage

¹ Any person who damages, destroys or renders unusable property belonging to another or in respect of which another has a right of use shall on complaint be liable to a custodial sentence not exceeding three years or to a monetary penalty.

² If the offender has committed criminal damage in the course of a public riot, he shall be prosecuted *ex officio*.

³ If the offender has caused major damage, a custodial sentence of from one to five years may be imposed. The offence is prosecuted *ex officio*.

Art. 144^{bis}

Damage to data

1. Any person who without authority alters, deletes or renders unusable data that is stored or transmitted electronically or in some other similar way shall on complaint be liable to a custodial sentence not exceeding three years or to a monetary penalty.

If the offender has caused major damage, a custodial sentence of from one to five years may be imposed. The offence shall be prosecuted *ex officio*.

2. Any person who manufactures, imports, markets, advertises, offers or otherwise makes accessible programs that he knows or must believe will be used for the purposes described in paragraph 1 above, or provides instructions on the manufacture of such programs shall be liable

¹⁰⁶ Amended in accordance with Art. 2 No 1 of the Federal Decree of 18 March 2011 (Council of Europe Convention on Cybercrime), in force since 1 Jan. 2012 (AS 2011 6293; BBl 2010 4697).

to a custodial sentence not exceeding three years or to a monetary penalty.

If the offender acts for commercial gain, a custodial sentence of from one to five years may be imposed.

Art. 145

Misappropriation and removal of property subject to a pledge or lien

Any debtor who, with the intention of causing loss to his creditors, appropriates, uses without authority, damages, destroys, reduces the value of or renders unusable property subject to a pledge or lien shall on complaint be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 146

Fraud

¹ Any person who with a view to securing an unlawful gain for himself or another wilfully induces an erroneous belief in another person by false pretences or concealment of the truth, or wilfully reinforces an erroneous belief, and thus causes that person to act to the prejudice of his or another's financial interests, shall be liable to a custodial sentence not exceeding five years or to a monetary penalty.

² If the offender acts for commercial gain, he shall be liable to a custodial sentence not exceeding ten years or to a monetary penalty of not less than 90 daily penalty units.

³ Fraud to the detriment of a relative or family member is prosecuted only on complaint.

Art. 147

Computer fraud

¹ Any person who with a view to his own or another's unlawful gain, by the incorrect, incomplete or unauthorised use of data, or in a similar way, influences the electronic or similar processing or transmission of data and as a result causes the transfer of financial assets, thus occasioning loss to another, or immediately thereafter conceals such a transfer shall be liable to a custodial sentence not exceeding five years or to a monetary penalty.

² If the offender acts for commercial gain, he shall be liable to a custodial sentence not exceeding ten years or to a monetary penalty of not less than 90 daily penalty units.

³ Computer fraud to the detriment of a relative or family member is prosecuted only on complaint.

Art. 148

Misuse of a cheque card or credit card

¹ Any person who with a view to obtaining services of a financial value and although incapable of making or unwilling to make payment

uses a cheque card or credit card or similar means of payment that has been entrusted to him by the issuer thereof and thus causes loss to the issuer, shall be liable, provided the issuer and the contracting enterprise have taken reasonable measures in order to prevent the abuse of the card, to a custodial sentence not exceeding five years or to a monetary penalty.

² If the offender acts for commercial gain, he shall be liable to a custodial sentence not exceeding ten years or to a monetary penalty of not less than 90 daily penalty units.

Art. 149

Making off from a hotel, restaurant or bar without payment

Any person who accepts accommodation, food or drink or other services in a hotel, restaurant, bar or similar premises and dishonestly makes off without making payment therefor shall on complaint be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 150

Obtaining a service without payment

Any person who obtains a service without paying, knowing that the service is only rendered against payment, and in particular makes use of public transport, attends public performances, exhibitions or similar events, or obtains services from a data processing device or a vending machine, shall on complaint be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 150^{bis}¹⁰⁷

Production and marketing of equipment for the unauthorised decoding of encoded services

¹ Any person who manufactures, imports, exports, transports, markets or installs equipment, the components or data processing programs of which are designed and are suitable for the unauthorised decoding of encoded television or radio programmes or telecommunications services shall on complaint be liable to a fine.¹⁰⁸

² An attempt to commit the foregoing offence or complicity in the same shall also be an offence.

¹⁰⁷ Inserted by Annex No 2 of the Telecommunications Act of 30 April 1997, in force since 1 Jan. 1998 (SR **784.10**).

¹⁰⁸ Penalties revised in accordance with No II 1 para. 16 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979).

Art. 151

Maliciously causing financial loss to another

Any person who without a view to gain, by making representations or suppressing information, wilfully misleads another or wilfully reinforces an erroneous belief with the result that the person in error acts in such a way that he or another incurs a financial loss shall on complaint be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 152

False statements about commercial business

Any person who, whether as founder, proprietor, partner with unlimited liability, authorised representative or member of the management board or the board of directors, or as an auditor or liquidator of a trading company, a co-operative or any other enterprise which carries on commercial business,

makes or causes to be made to all the company members, partners or shareholders of the enterprise, or co-operative members, or to the participants in any other commercial enterprise a false or incomplete statement of substantial significance by means of a public announcement or notice, report or presentation that could cause another to dispose of his own assets in such a way that he sustains financial loss,

shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 153

False statements to the commercial register authorities

Any person who causes an authority responsible for the Commercial Register to make a false entry in the Register or withholds from such an authority information which is required to be entered in the Register shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 154

Repealed

Art. 155

Counterfeiting of goods

1. Any person who with a view to deceiving another in trade or business

manufactures a product which appears to have a higher commercial value than its true commercial value, in particular by being an imitation or counterfeit version of another product,

or imports, stores or markets such a product,

shall, provided the act is not subject to a more severe penalty under another provision hereof, be liable to a custodial sentence not exceeding three years or to a monetary penalty.

2. ¹⁰⁹ If the offender acts for commercial gain, he shall, provided the act is not subject to a more severe penalty under another provision hereof, be liable to a custodial sentence not exceeding five years or to a monetary penalty.

Art. 156

Extortion

1. Any person who, with a view to securing an unlawful gain for himself or for another, induces another person by using violence or the threat of seriously detrimental consequences to behave in such a way that he or another sustains financial loss shall be liable to a custodial sentence not exceeding five years or to a monetary penalty.

2. If the offender acts for commercial gain, or if he repeatedly commits the offence against the same person,

he shall be liable to a custodial sentence of from one to ten years.

3. If the offender uses violence against another or if he threatens another with an immediate danger to life and limb, a penalty in accordance with Article 140 hereof shall be imposed.

4. If the offender threatens to endanger the life and limb of a large number of persons or to cause serious damage to property in which there is a substantial public interest, he shall be liable to a custodial sentence of not less than one year¹¹⁰.

Art. 157

Profiteering

1. Any person who for his own or another's financial gain or the promise of such gain, exploits the position of need, the dependence, the weakness of mind or character, the inexperience, or the foolishness of another person to obtain a payment or service which is clearly disproportionate to the consideration given in return,

any person who acquires a debt originating from an act of profiteering and sells or enforces the same,

shall be liable to a custodial sentence not exceeding five years or to a monetary penalty.

2. If the offender acts for commercial gain, he shall be liable to a custodial sentence of from one to ten years.

¹⁰⁹ Amended in accordance with No I 1 of the Federal Act of 3 Oct. 2008 on the Implementation of the Revised Recommendations of the Financial Action Task Force, in force since 1 Feb. 2009 (AS **2009** 361 367; BBl **2007** 6269).

¹¹⁰ Term in accordance with No II 1 para. 12 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979). This amendment has been taken into account throughout the Second Book.

Criminal
mismanagement**Art. 158**

1. Any person who by law, an official order, a legal transaction or authorisation granted to him, has been entrusted with the management of the property of another or the supervision of such management, and in the course of and in breach of his duties causes or permits that other person to sustain financial loss shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Any person who acts in the same manner in his capacity as the manager of a business but without specific instructions shall be liable to the same penalty.

If the offender acts with a view to securing an unlawful financial gain for himself or another, a custodial sentence of from one to five years may be imposed.

2. Any person who, with a view to securing an unlawful gain for himself or another, abuses the authority granted to him by statute, an official order or a legal transaction to act on behalf of another and as a result causes that other person to sustain financial loss shall be liable to a custodial sentence not exceeding five years or to a monetary penalty.

3. Criminal mismanagement to the detriment of a relative or family member is prosecuted only on complaint.

Art. 159Misuse of salary
deductions

Any employer who breaches his obligation to make use of a deduction from an employee's salary for the payment of taxes, duties, insurance premiums or contributions or in any other way for the benefit of the employee and thus causes loss to the employee shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 160Handling stolen
goods

1. Any person who takes possession of, accepts as a gift or as the subject of a pledge, conceals, or assists in the disposal of goods which he knows or must believe have been acquired by way of an offence against property shall be liable to a custodial sentence not exceeding five years or to a monetary penalty.

The offender shall be liable to the penalty applicable to the original offence if that penalty is reduced.

If the original offence is prosecuted only on complaint, the handling of stolen goods is prosecuted only if a complaint has been made in respect of the original offence.

2. If the offender acts for commercial gain, he shall be liable to a custodial sentence not exceeding ten years or to a monetary penalty of not less than 90 daily penalty units.

Art. 161

Exploitation of
the knowledge of
confidential
information

1. Any person who as a member of the board of directors or the management board, an auditor or an agent of a company limited by shares or a company controlling or dependent on such a company,

or as the member of a public authority or as a public official,

or as an auxiliary to any of the aforementioned persons,

obtains a financial advantage for himself or another by using or making known to a third party confidential information, the knowledge of which will have a substantial and foreseeable influence on the price of listed or pre-listed shares, other securities or corresponding book entry securities, or options on any of the aforementioned securities traded on a Swiss stock exchange,

shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

2. Any person who receives such information directly or indirectly from any of the persons mentioned in Section 1 and obtains a financial advantage for himself or another through the exploitation of such information,

shall be liable to a custodial sentence not exceeding one year or to a monetary penalty.¹¹¹

3. ...¹¹².

4. ¹¹³ In the case of the planned merger of two companies limited by shares, sections 1 and 2 apply to both companies.

5. ¹¹⁴ Sections 1, 2 and 4 shall be applicable by analogy if the exploitation of the knowledge of confidential information relates to shares, other securities, book-entry securities or related options in a cooperative or a foreign company.

Art. 161^{bis} ¹¹⁵

Price manipu-
lation

Any person who with the intention of exerting a significant influence on the price of securities traded on a Swiss stock exchange in order to secure an unlawful financial gain for himself or another:

wilfully disseminates misleading information or

¹¹¹ Penalties revised in accordance with No II 1 para. 16 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979).

¹¹² Repealed by No I of the Federal Act of 20 March 2008, with effect from 1 Oct. 2008 (AS **2008** 4501 4502; BBl **2007** 439).

¹¹³ Amended in accordance with No I of the Federal Act of 20 March 2008, in force since 1 Oct. 2008 (AS **2008** 4501 4502; BBl **2007** 439).

¹¹⁴ Amended in accordance with No I of the Federal Act of 20 March 2008, in force since 1 Oct. 2008 (AS **2008** 4501 4502; BBl **2007** 439).

¹¹⁵ Inserted by Art. 46 of the Stock Exchange Act of 24 March 1995, in force since 1 Feb. 1997 (SR **954.1**).

purchases or sells such securities, whereby the purchase and sale are mutually entered into directly or indirectly for the account of the same persons or persons linked together for that purpose,

shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 162

2. Breach of manufacturing or trade secrecy

Any person who betrays a manufacturing or trade secret that he is under a statutory or contractual duty not to reveal,

any person who exploits for himself or another such a betrayal,

shall on complaint be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 163

3. Bankruptcy and debt collection felonies or misdemeanours. Fraudulent bankruptcy and fraud against seizure

1. Any debtor who fictitiously reduces his assets to the prejudice of his creditors, and in particular

disposes of or conceals assets,

creates fictitious debts,

accepts fictitious claims as valid or arranges for the enforcement of such claims,

shall, if bankruptcy proceedings are commenced against him or a certificate of unsatisfied claims has been issued in his respect, be liable to a custodial sentence not exceeding five years or to a monetary penalty.

2. Subject to the same requirements, any third party who carries out any of the foregoing acts to the prejudice of creditors shall be liable a custodial sentence not exceeding three years or to a monetary penalty.

Art. 164

Reduction of assets to the prejudice of creditors

1. Any debtor who reduces his assets to the detriment of his creditors by

damaging, destroying or reducing the value of any assets or rendering them unusable,

disposing of any assets for no consideration or for a consideration that is clearly negligible in value,

or by waiving, without material grounds, any rights which may accrue thereon or by renouncing rights for no consideration,

shall, if bankruptcy proceedings are commenced against him or a certificate of unsatisfied claims has been issued in his respect, be liable

to a custodial sentence not exceeding five years or to a monetary penalty.

2. Subject to the same requirements, any third party who carries out any of the foregoing acts to the prejudice of creditors shall be liable to a custodial sentence not exceeding three years or to a monetary penalty..

Art. 165

Mismanagement

1. Any debtor who in a manner other than that in Article 164 through mismanagement, in particular through inadequate capital provision, excessive expenditure, hazardous speculation, the negligent granting or use of credit, the squandering of assets or gross negligence in the exercise of his profession or the management of his assets,

causes or aggravates his excessive indebtedness, causes his insolvency or, in the knowledge that he is unable to pay, prejudices his financial situation,

shall, if bankruptcy proceedings are commenced against him or a certificate of unsatisfied claims is issued in his respect be liable to a custodial sentence not exceeding five years or to a monetary penalty.

2. Any debtor whose assets have been seized shall be prosecuted solely on the complaint of a creditor who has obtained a certificate of unsatisfied claims against him.

The complaint must be filed within three months of receipt of the certificate of unsatisfied claims.

Any creditor who has induced a debtor to incur irresponsible debts, unreasonable expenditure or to enter into hazardously speculative transactions, or who has exploited the debtor usuriously, shall be barred from filing a complaint.

Art. 166

Failure to keep proper accounts

Any debtor who fails to comply with a statutory obligation to which he is subject to keep and preserve business accounts or draw up a balance sheet, with the result that his financial position is not or not fully ascertainable, shall, if bankruptcy proceedings are commenced against him or a certificate of unsatisfied claims has been issued in his respect following a seizure of assets in accordance with Article 43 of the Federal Act of 11 April 1889¹¹⁶ on Debt Collection and Bankruptcy (DCBA) be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 167

Undue preference to creditors

Any debtor who, in the knowledge of his inability to pay and with a view to showing preference to some of his creditors to the prejudice of others, acts in order to achieve such an aim, and in particular pays debts that are not due for payment, pays due debts in a way that differs from the normal methods, or provides security for a debt from his own means when he is not obliged to do so, shall, if bankruptcy proceedings are commenced against him or a certificate of unsatisfied claims has been issued in his respect, be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 168

Subornation in enforcement proceedings

¹ Any person who gives or promises a creditor or his representative special advantages in order to obtain his vote at the creditors' meeting or on the creditors' committee, or to obtain his consent to or rejection of a judicial composition agreement shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

² Any person who gives or promises the administrator in bankruptcy, a member of the bankruptcy administration, the Commissioner, or the liquidator special advantages in order to influence his decisions shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

³ Any person who causes another to give or promise such advantages shall be liable the same penalty.

Art. 169

Disposal of seized assets

Any person who without proper authority and to the prejudice of his creditors disposes of an asset

that has been officially seized or attached,

that has been officially recorded in debt recovery, bankruptcy or retention proceedings, or

that forms part of property that has been ceded in a liquidation settlement

or damages, destroys, reduces the value of, or renders unusable such an asset,

shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 170

Obtaining a
judicial composi-
tion agreement
by fraud

Any debtor who misleads his creditors, the Commissioner, or the debt collection authorities, in particular by false accounting or drawing up a false balance sheet, in order to obtain a moratorium of debt enforcement or the approval of a judicial composition agreement,
any third party who acts in the foregoing manner for the benefit of the debtor,
shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 171

Judicial composi-
tion agreement

¹ Articles 163 paragraph 1, 164 paragraph 1, 165 paragraph 1, 166 and 167 also apply in the event that a judicial composition agreement has been approved and adopted.

² If the debtor or a third party in terms of Articles 163 paragraph 2 and 164 paragraph 2 has made special efforts in economic terms and as a result facilitated the adoption of a judicial composition agreement, the competent authority may waive any prosecution, referral to court or the imposition of a penalty.

Art. 171^{bis}

Revocation of
bankruptcy

¹ If the bankruptcy proceedings are revoked (Art. 195 DCBA¹¹⁷), the authorities responsible may waive any prosecution, referral to court or the imposition of any penalties.

² If a judicial composition agreement is concluded, paragraph 1 above shall apply only if the debtor or the third party in terms of Article 163 paragraph 2 and 164 paragraph 2 has made special efforts in economic terms and as a result facilitated the adoption of the agreement.

Art. 172¹¹⁸

4. General
provisions.

...

Art. 172^{bis}

Combination of
a custodial
sentence with a
monetary penalty

Where only a custodial sentence is provided for in this Title, the court may in any case combine the custodial sentence with a monetary penalty.¹¹⁹

¹¹⁷ SR **281.1**

¹¹⁸ Repealed by No II 3 of the Federal Act of 13 Dec. 2002, with effect from 1 Jan. 2007 (AS **2006** 3459 3535; BBI **1999** 1979).

¹¹⁹ Penalties revised in accordance with No II 1 para. 16 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBI **1999** 1979).

Art. 172^{ter}

Minor offences
against property

¹ Where the offence relates only to a minor asset value or where only a minor loss is incurred, the offender is liable on complaint to a fine.

² This provision does not apply to aggravated theft (Art. 139 paras. 2 and 3), robbery or extortion.

Title Three:
**Offences against Personal Honour and in Breach of
Secrecy or Privacy¹²⁰**

Art. 173¹²¹

1. Offence
against personal
honour.
Defamation

1. Any person who in addressing a third party, makes an accusation against or casts suspicion on another of dishonourable conduct or of other conduct that is liable to damage another's reputation,

any person who disseminates such accusations or suspicions,

shall on complaint be liable to a monetary penalty not exceeding 180 daily penalty units¹²².

2. If the accused proves that the statement made or disseminated by him corresponds to the truth or that he had substantial grounds to hold an honest belief that it was true, he may not be held guilty of an offence.

3. The accused is not permitted to lead evidence in support of and is criminally liable for statements that are made or disseminated with the primary intention of accusing someone of disreputable conduct without there being any public interest or any other justified cause, and particularly where such statements refer to a person's private or family life.

4. If the offender recants his statement, the court may impose a more lenient penalty or no penalty at all.

5. If the accused is unable to prove the truth of his statement, or if it is shown to be untrue, or if the accused recants his statement, the court must state this in its judgment or in another document.

¹²⁰ Amended in accordance with No I of the Federal Act of 20 Dec. 1968, in force since 1 May 1969 (AS **1969** 319 322; BBl **1968** I 585).

¹²¹ Amended in accordance with No I of the Federal Act of 5 Oct. 1950, in force since 5 Jan. 1951 (AS **1951** I 16; BBl **1949** I 1249).

¹²² Term in accordance with No II I para. 13 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979). This amendment has been taken into account throughout the Second Book.

Art. 174Wilful defama-
tion

1. A person in addressing a third party, and knowing his allegations to be untrue, makes an accusation against or casts suspicion on another of dishonourable conduct, or of other conduct that shall be liable to damage another's reputation,

any person who disseminates such accusations or suspicions, knowing them to be untrue,

shall on complaint be liable to a custodial sentence not exceeding three years or to a monetary penalty.

2. If the offender has acted systematically to undermine the good reputation of another, he shall be liable to a custodial sentence not exceeding three years or to a monetary penalty of not less than 30 daily penalty units.¹²³

3. If the offender recants his statement before the court on the grounds that it is untrue, the court may impose a more lenient penalty. The court must provide the person harmed with a document confirming the recantation.

Art. 175Defamation of a
deceased person
or of a person
missing pre-
sumed dead

¹ If the defamation, whether wilful or not, is directed at a person who is deceased or who has been declared missing presumed dead, the relatives of the deceased person or the person missing presumed dead shall be entitled to apply for prosecution.

² No offence is committed if, at the time of the statement being made, the deceased person has been dead or the missing person missing for more than 30 years.

Art. 176General provi-
sion

Verbal defamation, whether wilful or not, shall be regarded as the equivalent of defamatory statements made in writing, in pictures, by gestures or in any other manner.

Art. 177

Insult

¹ Any person who attacks the honour of another verbally, in writing, in pictures, through gestures or through acts of aggression shall on complaint be liable to a monetary penalty not exceeding 90 daily penalty units.¹²⁴

¹²³ Penalties revised in accordance with No II 1 para. 16 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979).

¹²⁴ Penalties revised in accordance with No II 1 para. 16 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979).

² If the insulted party has directly provoked the insult by improper behaviour, the court may dispense with imposing a penalty on the offender.

³ If there is an immediate response to the insult by way of a retaliatory insult or act of aggression, the court may dispense with imposing a penalty on either or both offenders.

Art. 178

Limitation

¹ The right to prosecute misdemeanours against personal honour is subject to a limitation period of four years.¹²⁵

² Article 31 applies to the expiry of the right to file a complaint.¹²⁶

Art. 179

2.¹²⁷ Offences in breach of privacy or secrecy.
Breach of the privacy of a sealed document

Any person who without authority opens a sealed document or sealed mail in order to obtain knowledge of its content,

any person who disseminates or makes use of information he has obtained by opening a sealed document or sealed mail that was not intended for him,

shall on complaint be liable to a fine.

Art. 179^{bis} 128

Listening in on and recording the conversations of others

Any person who by using a listening device and without the permission of all those participating, listens in on a private conversation between other persons, or records such a conversation on a recording device,

any person who makes use of information that he knows or must believe has come to his knowledge as the result of an offence under the above paragraph or makes such information known to a third party,

any person who stores or allows a third party access to a recording that he knows or must believe has been made as the result of an offence under paragraph 1 above,

shall on complaint be liable to a custodial sentence not exceeding three years or to a monetary penalty.

¹²⁵ Amended in accordance with No I of the Federal Act of 22 March 2002 (Limitation of the Right to Prosecute), in force since 1 Oct. 2002 (AS 2002 2986 2988; BBl 2002 2673 1649).

¹²⁶ Amended in accordance with No II 2 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS 2006 3459 3535; BBl 1999 1979).

¹²⁷ Amended in accordance with No I of the Federal Act of 20 Dec. 1968, in force since 1 May 1969 (AS 1969 319 322; BBl 1968 I 585).

¹²⁸ Inserted by No I of the Federal Act of 20 Dec. 1968, in force since 1 May 1969 (AS 1969 319 322; BBl 1968 I 585).

Unauthorised recording of conversations

Art. 179^{ter} 129

Any person who, as a participant in a private conversation, records the conversation on a recording device without the permission of the other participants,

any person who stores or makes use of a recording, makes the recording available or discloses its content to a third party when he knows or must believe that the recording has been made as the result of an offence under paragraph 1 above,

shall on complaint be liable to a custodial sentence not exceeding one year or to a monetary penalty.¹³⁰

Breach of secrecy or privacy through the use of an image-carrying device

Art. 179^{quater} 131

Any person who observes with a recording device or records with an image-carrying device information from the secret domain of another or information which is not automatically accessible from the private domain of another,

any person who makes use of information or makes information known to a third party, which he knows or must believe has been produced as a result of an offence under paragraph 1 above,

any person who stores or allows a third party access to a recording that he knows or must believe has been made as the result of an offence under paragraph 1 above,

shall on complaint be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Legal recordings

Art. 179^{quinquies} 132

1 Persons who as participants in the conversation or subscribers to a participating line record calls:

- a. with the emergency, rescue or security services; or
- b. in the course of business that have orders, assignments, reservations and similar transactions as their subject matter.

do not commit an offence under Article 179^{bis} paragraph 1 or Article 179^{ter} paragraph 1.

¹²⁹ Inserted by No I of the Federal Act of 20 Dec. 1968, in force since 1 May 1969 (AS 1969 319 322; BBl 1968 I 585).

¹³⁰ Penalties revised in accordance with No II 1 para. 16 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS 2006 3459 3535; BBl 1999 1979).

¹³¹ Inserted by No I of the Federal Act of 20 Dec. 1968, in force since 1 May 1969 (AS 1969 319 322; BBl 1968 I 585).

¹³² Inserted by No I of the Federal Act of 20 Dec. 1968 (AS 1969 319; BBl 1968 I 585). Amended in accordance with No I of the Federal Act of 3 Oct. 2003, in force since 1 March 2004 (AS 2004 823 824; BBl 2001 2632 5816).

² Article 179^{bis} paragraphs 2 and 3 and 179^{ter} paragraph 2 apply by analogy to the use of recordings in accordance with paragraph 1 above.

Art. 179^{sexies} 133

Marketing and promotion of devices for unlawful listening or sound or image recording

1. Any person who manufactures, imports, exports, acquires, stores, possesses, transports, passes on to another, sells, leases, lends or in any other manner markets, promotes or provides instruction on the manufacture of technical devices which are in particular intended for unlawful listening or the unlawful making of sound or image recordings,

shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

2. If the offender acts on behalf of a third party, that third party shall be liable to the same penalty as the offender provided he was aware that the offence was being committed and failed to use his best efforts to prevent the commission of the offence.

If the third party is a legal entity, a general or limited partnership or a sole proprietorship¹³⁴, paragraph 1 above shall apply to those persons who acted or should have acted on behalf of that entity.

Art. 179^{septies} 135

Misuse of a telecommunications installation

Any person who uses a telecommunications installation maliciously or mischievously in order to cause distress to or harass another, shall on complaint be liable to a fine.

Art. 179^{octies} 136

Official surveillance, exempted acts

¹ Any person who, in the exercise of express statutory powers, orders or carries out the surveillance of postal or telecommunications traffic of another or makes use of technical surveillance devices (Art. 179^{bis} ff.) does not commit an offence provided that the consent of the appropriate court is obtained without delay.

² The requirements for the surveillance of postal or telecommunications traffic and the procedure therefor is governed by the Federal Act

¹³³ Inserted by No I of the Federal Act of 20 Dec. 1968, in force since 1 May 1969 (AS 1969 319 322; BBl 1968 I 585).

¹³⁴ Terminological amendment relevant only to the German text.

¹³⁵ Inserted by No I of the Federal Act of 20 Dec. 1968 (AS 1969 319; BBl 1968 I 585). Amended in accordance with Annex No 2 of the Telecommunications Act of 30 April 1997, in force since 1 Jan. 1998 (SR 784.10).

¹³⁶ Inserted by No VII of the Federal Act of 23 March 1979 on the Protection of Personal Privacy (AS 1979 1170; BBl 1976 I 529 II 1569). Amended in accordance with Annex No 1 of the Federal Act of 6 Oct. 2000 on the Surveillance of Post and Telecommunications, in force since 1 Jan. 2002 (SR 780.1).

of 6 October 2000¹³⁷ on the Surveillance of Postal and Telecommunications Traffic.

Art. 179^{novies 138}

Obtaining
personal data
without authori-
sation

Any person who without authorisation obtains from a data collection personal data or personality profiles that are particularly sensitive and that are not freely accessible shall on complaint be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Title Four: Felonies and Misdemeanours against Liberty

Art. 180

Threatening
behaviour

¹ Any person who places another in a state of fear and alarm by making a serious threat shall on complaint be liable to a custodial sentence not exceeding three years or to a monetary penalty.

² The offender shall be prosecuted ex officio if he:

- a. is the spouse of the victim and the threat was made during the marriage or within one year of divorce; or
- a^{bis}.¹³⁹ is the registered partner of the victim and the threat was made during the registered partnership or within one year of its dissolution; or
- b. is the heterosexual or homosexual partner of the victim, provided they are cohabiting for an unlimited period and the threat was made during this time or within one year of separation.¹⁴⁰

Art. 181

Coercion

Any person who, by the use of force or the threat of serious detriment or other restriction of another's freedom to act compels another to carry out an act, to fail to carry out an act or to tolerate an act, shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

¹³⁷ SR **780.1**

¹³⁸ Inserted by Annex No 4 of the Federal Act of 19 June 1992 on Data Protection, in force since 1 July 1993 (SR **235.1**).

¹³⁹ Inserted by Annex No 18 of the Same-Sex Partnership Act of 18 June 2004, in force since 1 Jan. 2007 (SR **211.231**).

¹⁴⁰ Inserted by No I of the Federal Act of 3 Oct. 2003 (Prosecution of Offences within Marriage or Registered Partnerships), in force since 1 April 2004 (AS **2004** 1403 1407; BBl **2003** 1909 1937).

Art. 182¹⁴¹

Trafficking in
human beings

¹ Any person who as a supplier, intermediary or customer engages in the trafficking of a human being for the purpose of sexual exploitation, exploitation of his or her labour or for the purpose of removing an organ shall be liable to a custodial sentence or to a monetary penalty. The soliciting of a person for these purposes is equivalent to trafficking.

² If the victim is a minor or if the offender acts for commercial gain, the penalty shall be a custodial sentence of not less than one year.

³ In every case, a monetary penalty must also be imposed.

⁴ Any person who commits the act abroad is also guilty of an offence. Articles 5 and 6 apply.

Art. 183¹⁴²

False imprison-
ment and
abduction

1. Any person who unlawfully arrests or holds another prisoner or otherwise unlawfully deprives another of his liberty,

any person who, by the use of force, false pretences or threats, abducts another,

shall be liable to a custodial sentence not exceeding five years or to a monetary penalty.

2. Any person who abducts a person who is incapable of judgement or resistance or who is under the age of sixteen, shall be liable the same penalty.

Art. 184¹⁴³

Aggravating
circumstances

The penalty for false imprisonment and abduction shall be a custodial sentence of not less than one year,

if the offender attempts to obtain a ransom,

if he treats the victim with cruelty,

if the deprivation of liberty lasts for a period in excess of ten days or

if the health of the victim is seriously endangered.

¹⁴¹ Repealed by No I of the Federal Act of 9 Oct. 1981 (AS **1982** 1530; BBl **1980** I 1241). Amended in accordance with Art. 2 No 1 of the Federal Decree of 24 March 2006 on the Approval and Implementation of the Optional Protocol of 25 May 2000 to the Convention on the Rights of the Child, on the Sale of Children, Child Prostitution and Child Pornography, in force since 1 Dec. 2006 (AS **2006** 5437 5440; BBl **2005** 2807).

¹⁴² Amended in accordance with No I of the Federal Act of 9 Oct. 1981, in force since 1 Oct. 1982 (AS **1982** 1530 1534; BBl **1980** I 1241).

¹⁴³ Amended in accordance with No I of the Federal Act of 9 Oct. 1981, in force since 1 Oct. 1982 (AS **1982** 1530 1534; BBl **1980** I 1241).

Art. 185¹⁴⁴

Hostage taking

1. Any person who deprives another of his liberty, or abducts or otherwise seizes another in order to coerce a third party to carry out an act, abstain from carrying out an act or tolerate an act,

any person who exploits a situation created in the foregoing manner by another in order so to coerce a third party,

shall be liable to a custodial sentence of not less than one year .

2. The penalty shall be a custodial sentence of not less than three years if the offender threatens to kill or seriously injure the victim or to treat the victim with cruelty.

3. In particularly serious cases, and in particular if the act involves several victims, the offender shall be liable to a custodial sentence of life.

4.¹⁴⁵ If the offender abandons the coercion and releases the victim, a reduced penalty may be imposed (Art. 48a).

5. Any person who commits the offence abroad shall also be liable to the foregoing penalties provided he is arrested in Switzerland and not extradited. Article 7 paragraphs 4 and 5 apply.¹⁴⁶

Art. 186

Unlawful entry

Any person who, against the will of the lawful occupants enters a building, an apartment, a self-contained room within a building, an enclosed area, courtyard or garden forming a direct part of a building, or a clearly demarcated workplace or, despite requests from the lawful occupants to leave, remains in such a location, shall on complaint be liable to a custodial sentence not exceeding three years or to a monetary penalty.

¹⁴⁴ Amended in accordance with No I of the Federal Act of 9 Oct. 1981, in force since 1 Oct. 1982 (AS **1982** 1530 1534; BBl **1980** I 1241).

¹⁴⁵ Amended in accordance with No II 2 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979).

¹⁴⁶ Second sentence amended in accordance with No II 2 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979).

Title Five:¹⁴⁷ Offences against Sexual Integrity

Art. 187

1. Endangering
the development
of minors.
Sexual acts with
children

1. Any person who engages in a sexual act with a child under 16 years of age, or,

incites a child to commit such an activity, or
involves a child in a sexual act,

shall be liable to a custodial sentence not exceeding five years or to a monetary penalty.

2. The act is not an offence if the difference in age between the persons involved is not more than three years.

3.¹⁴⁸ If the offender has not reached the age of 20 at the time of the activity, and if there are special circumstances, or if the child is the spouse or registered partner of the offender, the responsible authority may dispense with prosecution, referral to the court or the imposition of a penalty.

4. If the offender acts under the misconception that the child is 16 years of age or older, but he would not have made this error had he exercised due care, the penalty shall be a custodial sentence not exceeding three years or to a monetary penalty.

5. ...¹⁴⁹

6. ...¹⁵⁰

Art. 188

Sexual acts with
dependent
persons

1. Any person who commits a sexual act by exploiting his or her relationship with a minor over the age of 16 who is dependent on him due to a relationship arising from the minor's education, care or employment or another form of dependent relationship,

any person who encourages such a minor to commit a sexual act by exploiting such a relationship,

shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

¹⁴⁷ Amended in accordance with No 1 of the Federal Act of 21 June 1991, in force since 1 Oct. 1992 (AS **1992** 1670 1678; BBl **1985** II 1009).

¹⁴⁸ Amended in accordance with Annex No 18 of the Same-Sex Partnership Act of 18 June 2004, in force since 1 Jan. 2007 (SR **211.231**).

¹⁴⁹ Repealed by No I of the Federal Act of 21 March 1997 (AS **1997** 1626; BBl **1996** IV 1318 1322).

¹⁵⁰ Inserted by No I of the Federal Act of 21 March 1997 (AS **1997** 1626; BBl **1996** IV 1318 1322). Repealed by No I of the Federal Act of 5 Oct. 2001 (Limitation of Right to Prosecute in general and in cases of Sexual Offences against Children) (AS **2002** 2993; BBl **2000** 2943).

2.¹⁵¹ If the minor is the spouse or registered partner of the offender, the responsible authority may dispense with prosecution, referral to the court or the imposition of a penalty.

Art. 189

2. Offences
against sexual
liberty and
honour.
Indecent assault

¹ Any person who uses threats, force or psychological pressure on another person or makes that other person incapable of resistance in order to compel him or her to tolerate a sexual act similar to intercourse or any other sexual act shall be liable to a custodial sentence not exceeding ten years or to a monetary penalty.

2 ...¹⁵²

³ If the offender acts with cruelty, and if in particular he makes use of an offensive weapon or any other dangerous object, the penalty shall be a custodial sentence of not less than three years.¹⁵³

Art. 190

Rape

¹ Any person who forces a person of the female sex by threats or violence, psychological pressure or by being made incapable of resistance to submit to sexual intercourse shall be liable to a custodial sentence of from one to ten years.

2 ...¹⁵⁴

³ If the offender acts with cruelty, and if in particular he makes use of an offensive weapon or any other dangerous object, the penalty shall be a custodial sentence of not less than three years.¹⁵⁵

Art. 191

Sexual acts with
persons lacking
mental capacity
or incapable of
resistance

Any person who, in the knowledge that another person lacks mental capacity or is incapable of resistance, has sexual intercourse with, or commits an act similar to sexual intercourse or any other sexual act on that person shall be liable to a custodial sentence not exceeding ten years or to a monetary penalty.

¹⁵¹ Amended in accordance with Annex No 18 of the Same-Sex Partnership Act of 18 June 2004, in force since 1 Jan. 2007 (SR **211.231**).

¹⁵² Repealed by No I of the Federal Act of 3 Oct. 2003 (Prosecution of Offences within Marriage or Registered Partnerships), with effect from 1 April 2004 (AS **2004** 1403 1407; BBl **2003** 1909 1937).

¹⁵³ Amended in accordance with No I of the Federal Act of 3 Oct. 2003 (Prosecution of Offences within Marriage or Registered Partnerships), in force since 1 April 2004 (AS **2004** 1403 1407; BBl **2003** 1909 1937).

¹⁵⁴ Repealed by No I of the Federal Act of 3 Oct. 2003 (Prosecution of Offences within Marriage or Registered Partnerships), with effect from 1 April 2004 (AS **2004** 1403 1407; BBl **2003** 1909 1937).

¹⁵⁵ Amended in accordance with No I of the Federal Act of 3 Oct. 2003 (Prosecution of Offences within Marriage or Registered Partnerships), in force since 1 April 2004 (AS **2004** 1403 1407; BBl **2003** 1909 1937).

Art. 192

Sexual acts with persons in institutional care, prisoners and persons on remand

¹ Any person who, by abusing a dependent relationship with a person in institutional care, an inmate of an institution, a prisoner, a detainee or a person on remand, induces the dependent person to commit or submit to a sexual act, shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

² If the person harmed is the spouse or registered partner of the offender, the responsible authority may dispense with prosecution, referral to the court or the imposition of a penalty.¹⁵⁶

Art. 193

Exploitation of a person in a position of need or dependency

¹ Any person who induces another to commit or submit to a sexual act by exploiting a position of need or a dependent relationship based on employment or another dependent relationship shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

² If the person harmed is the spouse or registered partner of the offender, the responsible authority may dispense with prosecution, referral to the court or the imposition of a penalty.¹⁵⁷

Art. 194

Indecent conduct

¹ Any person who engages in an act of exhibitionism shall on complaint be liable to a monetary penalty not exceeding 180 daily penalty units.

² If the offender undergoes medical treatment, the criminal proceedings may be suspended. They may be resumed if the offender refuses to continue treatment.

Art. 195

3. Exploitation of sexual acts. Encouraging prostitution

Any person who induces a minor into prostitution,

any person who induces another person into prostitution by exploiting his or her dependence or a financial advantage,

any person who restricts the freedom to act of a prostitute by supervising him or her in the course of his or her activities or by exercising control over the location, time, volume or other aspects of his or her work as a prostitute or,

any person who makes a person remain a prostitute against his or her will,

¹⁵⁶ Amended in accordance with Annex No 18 of the Same-Sex Partnership Act of 18 June 2004, in force since 1 Jan. 2007 (SR **211.231**).

¹⁵⁷ Amended in accordance with Annex No 18 of the Same-Sex Partnership Act of 18 June 2004, in force since 1 Jan. 2007 (SR **211.231**).

shall be liable to a custodial sentence not exceeding ten years or to a monetary penalty.

Art. 196¹⁵⁸

Art. 197

4. Pornography

1. Any person who offers, shows, passes on or makes accessible to a person who is under the age of 16 pornographic documents, sound or visual recordings, depictions or other articles of a similar nature or pornographic representations, or broadcasts any of the same on radio or television shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

2. Any person who exhibits in public articles or representations as described in Paragraph 1 above or shows or otherwise offers the same unsolicited to others shall be liable to a fine.

Any person who, in advance, draws the attention of visitors to private exhibitions or performances to their pornographic character shall not commit an offence.

3. Any person who produces, imports, stores, markets, advertises, exhibits, offers, shows, passes on or makes accessible to others articles or representations as described in Paragraph 1 above that depict sexual acts involving children or animals, human excrement, or acts of violence shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

The articles shall be forfeited.

^{3bis 159} Any person who acquires, possesses or procures via electronic media articles or representations as described in Paragraph 1 above that depict sexual acts involving children or animals or sexual acts involving violence shall be liable to a custodial sentence not exceeding one year or to a monetary penalty¹⁶⁰.

The articles shall be forfeited.

4. If the offender acts for financial gain, he shall be liable a custodial sentence not exceeding three years or to a monetary penalty. The custodial sentence must be combined with a monetary penalty.

¹⁵⁸ Repealed by Art. 2 No 1 of the Federal Decree of 24 March 2006 on the Approval and Implementation of the Optional Protocol of 25 May 2000 to the Convention on the Rights of the Child, on the Sale of Children, Child Prostitution and Child Pornography, with effect from 1 Dec. 2006 (AS **2006** 5437 5440; BBI **2005** 2807).

¹⁵⁹ Inserted by No I of the Federal Act of 5 Oct. 2001 (Offences against Sexual Integrity; Prohibition of the Possession of hard-core Pornography), in force since 1 April 2002 (AS **2002** 408 409; BBI **2000** 2943).

¹⁶⁰ Penalties revised in accordance with No II 1 para. 16 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBI **1999** 1979).

5. Objects or recordings as described in Paragraphs 1-3 above shall not be regarded as pornographic if they have a cultural or scientific value that justifies their protection by law.

Art. 198

5. Contraven-
tions against
sexual integrity.
Sexual harass-
ment

Any person who causes offence by performing a sexual act in the presence of another who does not expect it,

any person who sexually harasses another physically or through the use of indecent language,

shall on complaint be liable to a fine.

Art. 199

Unauthorised
practice of
prostitution

Any person who violates the cantonal regulations on the permitted locations or times at which prostitution may be practised or the manner in which it may be practised, or on the prevention of related public nuisance shall be liable to a fine.

Art. 200

6. Joint commis-
sion

Where any person commits an offence under this Title jointly with one or more others, the court may increase the penalty imposed, but may not exceed the standard maximum penalty for the offence by more than an additional half. The court shall, in imposing the penalty, be bound by the statutory maximum penalty for the type of offence in question.

Art. 201–212¹⁶¹

Title Six: Felonies and Misdemeanours against the Family

Art. 213¹⁶²

Incest

¹ Any person who has sexual intercourse with a blood relative in direct line or with a brother or sister, or a half-brother or half-sister shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

² Minors are not liable to any penalty provided they have been induced to commit the act.

¹⁶¹ These repealed articles have (with the exception of Art. 211) been replaced by Articles 195, 196, 197, 198, 199 (see Commentary on Dispatch No 23 – BBl 1985 II 1009). Art. 211 has been deleted without replacement.

¹⁶² Amended in accordance with No I of the Federal Act of 23 June 1989, in force since 1 Jan. 1990 (AS 1989 2449 2456; BBl 1985 II 1009).

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Art. 214¹⁶⁴

Art. 215¹⁶⁵

Bigamy

Any person who marries or enters into a registered same-sex partnership when he is already married or living in a registered same-sex partnership,

any person who marries or enters into a registered same-sex partnership with a person who is already married or living in a registered same-sex partnership,

shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 216¹⁶⁶

Art. 217¹⁶⁷

Neglect of duty to support the family

¹ Any person who fails to fulfil his or her family law duties to provide maintenance or support although he or she has or could have the means to do so, shall on complaint be liable to a custodial sentence not exceeding three years or to a monetary penalty.

² The authorities and agencies appointed by the cantons also have the right to file a complaint. In exercising this right, they shall take account of the interests of the family.

Art. 218¹⁶⁸

Art. 219¹⁶⁹

Neglect of duties of care, supervision or education

¹ Any person who violates or neglects his or her duties of supervision and education towards a minor and thus endangers the minor's physical or mental development, shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

¹⁶³ Repealed by No I of the Federal Act of 5 Oct. 2001 (Limitation of Right to Prosecute in general and in cases of Sexual Offences against Children) (AS **2002** 2993; BBl **2000** 2943).

¹⁶⁴ Repealed by No I of the Federal Act of 23 June 1989 (AS **1989** 2449; BBl **1985** II 1009).

¹⁶⁵ Amended in accordance with Annex No 18 of the Same-Sex Partnership Act of 18 June 2004, in force since 1 Jan. 2007 (SR **211.231**).

¹⁶⁶ Repealed by No I of the Federal Act of 23 June 1989 (AS **1989** 2449; BBl **1985** II 1009).

¹⁶⁷ Amended in accordance with No I of the Federal Act of 23 June 1989, in force since 1 Jan. 1990 (AS **1989** 2449 2456; BBl **1985** II 1009).

¹⁶⁸ Repealed by No I of the Federal Act of 23 June 1989 (AS **1989** 2449; BBl **1985** II 1009).

¹⁶⁹ Amended in accordance with No I of the Federal Act of 23 June 1989, in force since 1 Jan. 1990 (AS **1989** 2449 2456; BBl **1985** II 1009).

² If the person concerned acts through negligence, a fine may be imposed instead of a custodial sentence or a monetary penalty.¹⁷⁰

Art. 220¹⁷¹

Abduction of
minors

Any person who removes a minor from or refuses to return a minor to the person holding parental authority or guardianship over that minor shall on complaint be liable to a custodial sentence not exceeding three years or to a monetary penalty.

**Title Seven:
Felonies and Misdemeanours constituting a Public Danger**

Art. 221

Arson

¹ Any person who wilfully causes a fire and thus does damage to another or causes a danger to the public shall be liable to a custodial sentence of not less than one year.

² If the offender wilfully endangers the life and limb of others, the penalty shall be a custodial sentence of not less than three years.

³ If the damage caused is minor, the penalty may be reduced to a custodial sentence of up to three years or to a monetary penalty.

Art. 222

Negligent arson

¹ Any person who causes a fire through negligence and thus does damage to another or causes a danger to the public shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

² If the offender through negligence endangers the life and limb of others, the penalty shall be a custodial sentence not exceeding three years or a monetary penalty.

Art. 223

Causing an
explosion

1. Any person who wilfully causes an explosion involving gas, petrol, paraffin or a similar substance and thus knowingly endangers the life and limb or property of others shall be liable to a custodial sentence of not less than one year.

If only minor loss, damage or injury is caused, a custodial sentence not exceeding three years or a monetary penalty may be imposed.

¹⁷⁰ Penalties revised in accordance with No II 1 para. 16 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979).

¹⁷¹ Amended in accordance with No I of the Federal Act of 23 June 1989, in force since 1 Jan. 1990 (AS **1989** 2449 2456; BBl **1985** II 1009).

2. If the person concerned acts through negligence, the penalty shall be a custodial sentence not exceeding three years or a monetary penalty.

Art. 224

Misuse of explosives and toxic gases with criminal intent

¹ Any person who wilfully and with criminal intent endangers the life and limb or the property of others through the use of explosives or toxic gases shall be liable to a custodial sentence of not less than one year.

² If only an insignificant danger to property is caused, a custodial sentence not exceeding three years or a monetary penalty may be imposed.

Art. 225

Misuse of explosives or toxic gases without criminal intent or through negligence

¹ Any person who wilfully but without criminal intent endangers the life and limb or the property of others through the use of explosives or toxic gases shall be liable to a custodial sentence not exceeding five years or to a monetary penalty.

² In minor cases, a fine may be imposed.

Art. 226

Manufacture, concealment and transport of explosives and toxic gases

¹ Any person who manufactures explosives or toxic gases that he knows or must believe are intended to be used to commit a felony shall be liable to a custodial sentence not exceeding ten years or to a monetary penalty of not less than 180 daily penalty units.

² Any person who procures, passes on to another, accepts from another, safeguards, conceals or transports explosives, toxic gases or substances suitable for their manufacture shall, if he knows or must believe that they are intended to be used to commit a felony, be liable to a custodial sentence not exceeding five years or to a monetary penalty of not less than 30 daily penalty units¹⁷².

³ Any person who instructs another person on how to manufacture explosives or toxic gases when he knows or must believe that that person is planning to use the explosives or toxic gases to commit a felony shall be liable to a custodial sentence not exceeding five years or to a monetary penalty of not less than 30 daily penalty units.

¹⁷² Term in accordance with No II 1 para. 14 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979). This amendment has been taken into account throughout the Second Book.

Causing danger
by means of
nuclear energy,
radioactivity or
ionising
radiation

Art. 226^{bis} 173

¹ Any person who wilfully causes serious danger to the life or the health of people or to the property of others by means of nuclear energy, radioactive substances or ionising radiation shall be liable to a custodial sentence or a monetary penalty. A custodial sentence must be combined with a monetary penalty.

² If the offender acts through negligence, he shall be liable to a custodial sentence not exceeding five years or to a monetary penalty. A custodial sentence must be combined with a monetary penalty.

Preparatory
offences

Art. 226^{ter} 174

¹ Any person who systematically carries out specific technical or organisational preparations for acts intended to cause danger to the life or the health of people or to the property of others by means of nuclear energy, radioactive substances or ionising radiation of substantial value shall be liable to a custodial sentence not exceeding five years or to a monetary penalty. A custodial sentence must be combined with a monetary penalty.

² Any person who manufactures, procures, passes on to another, accepts from another, stores, conceals or transports radioactive substances, equipment, apparatus or articles that contain radioactive substances or may emit ionising radiation shall, if he knows or must believe that they are intended for unlawful use be liable to a custodial sentence not exceeding ten years or to a monetary penalty. A custodial sentence must be combined with a monetary penalty.

³ Any person who instructs another person on how to manufacture such substances, equipment, apparatus or articles shall, if he knows or must believe that they are intended for unlawful use, be liable to a custodial sentence not exceeding five years or to a monetary penalty. A custodial sentence must be combined with a monetary penalty.

Causing a flood,
collapse or
landslide

Art. 227

1. Any person who wilfully causes a flood, the collapse of a structure or a landslide or rock fall and thus knowingly endangers the life and limb of people or the property of others shall be liable to a custodial sentence of not less than one year.

If only minor loss, damage or injury is caused, a custodial sentence not exceeding three years or a monetary penalty may be imposed.

¹⁷³ Inserted by Annex No II 2 of the Nuclear Energy Act of 21 March 2003, in force since 1 Feb. 2005 (SR 732.1).

¹⁷⁴ Inserted by Annex No II 2 of the Nuclear Energy Act of 21 March 2003, in force since 1 Feb. 2005 (SR 732.1).

2. If the person concerned acts through negligence, the penalty shall be a custodial sentence not exceeding three years or a monetary penalty.

Art. 228

Criminal damage to electrical installations, and hydraulic or protective structures

1. Any person who wilfully damages or destroys electrical installations, hydraulic structures such as dams, weirs, dikes, and floodgates, structures erected to provide protection against natural forces such as landslides or avalanches, and thus knowingly endangers the life and limb of people or the property of others, shall be liable to a custodial sentence of not less than one year.

If only minor loss, damage or injury is caused, a custodial sentence not exceeding three years or a monetary penalty may be imposed.

2. If the person concerned acts through negligence, the penalty shall be a custodial sentence not exceeding three years or a monetary penalty.

Art. 229

Violation of construction regulations

¹ Any person engaged in the management or execution of construction or demolition work who wilfully disregards the accepted rules of construction and as a result knowingly endangers the life and limb of others shall be liable to a custodial sentence not exceeding three years or to a monetary penalty. The custodial sentence must be combined with a monetary penalty.

² If the offender disregards the accepted rules of construction through negligence, the penalty shall be a custodial sentence not exceeding three years or a monetary penalty.

Art. 230

Removal or non-installation of safety devices

1. Any person who wilfully damages, destroys, removes, otherwise renders unusable or deactivates a safety device which serves to prevent accidents in a factory or other commercial premises or on a machine, who wilfully fails to install such a device in violation of the regulations,

and thus knowingly endangers the life and limb of other people,

shall be liable to a custodial sentence not exceeding three years or to a monetary penalty. The custodial sentence must be combined with a monetary penalty.

2. If the person concerned acts through negligence, the penalty shall be a custodial sentence not exceeding three years or a monetary penalty.

Title Eight: Felonies and Misdemeanours against Public Health

Art. 230^{bis} 175

Causing danger
by means of
genetically
modified or
pathogenic
organisms

¹ Any person who wilfully releases genetically modified or pathogenic organisms or the disrupts the operation of a facility for the research into, or the safeguarding, production or transport of such organisms shall be liable to a custodial sentence not exceeding ten years, provided he knows or must believe that through his acts:

- a. he will endanger the life and limb of people; or
- b. the natural composition of communities of animals and plants or their habitats will be seriously endangered.

² If the offender acts through negligence, he shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 231

Transmission of
human diseases

1. Any person who wilfully transmits a dangerous communicable human disease shall be liable to a custodial sentence not exceeding five years or to a monetary penalty of not less than 30 daily penalty units.¹⁷⁶

If the offender acts in a particularly depraved manner, the penalty shall be a custodial sentence of from one to five years.

2. If the offender acts through negligence, the penalty shall be a custodial sentence not exceeding three years or a monetary penalty.

Art. 232

Transmission of
an epizootic
disease

1. Any person who wilfully causes the transmission of an epizootic disease among domestic animals shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

If the offender maliciously causes serious loss, damage or injury, the penalty shall be a custodial sentence of from one to five years.

2. If the person concerned acts through negligence, the penalty shall be a custodial sentence not exceeding three years or a monetary penalty.

¹⁷⁵ Inserted by Annex No 1 of the Gene Technology Act of 21 March 2003, in force since 1 Jan. 2004 (SR **814.91**).

¹⁷⁶ Penalties revised in accordance with No II 1 para. 16 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979).

Art. 233Propagation of
harmful parasites

1. Any person who wilfully propagates a parasite or micro-organism that constitutes a danger to agriculture or forestry, shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

If the offender maliciously causes serious loss, damage or injury, the penalty shall be a custodial sentence of from one to five years.

2. If the person concerned acts through negligence, the penalty shall be a custodial sentence not exceeding three years or a monetary penalty.

Art. 234Contamination
of drinking water

1 Any person who wilfully contaminates drinking water intended for people or domestic animals with substances that are damaging to health shall be liable to a custodial sentence not exceeding five years or to a monetary penalty of not less than 30 daily penalty units.

2 If the person concerned acts through negligence, the penalty shall be a custodial sentence not exceeding three years or a monetary penalty.

Art. 235Production of
harmful animal
feed

1. Any person who wilfully produces or treats animal feed or feed-stuffs for domestic animals in such a way that they constitute a danger to the health of animals shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

If the offender carries on a commercial operation to produce or treat animal feed that is harmful to animals, the penalty shall be a custodial sentence not exceeding three years or a monetary penalty of not less than 30 daily penalty units. A custodial sentence must be combined with a monetary penalty.¹⁷⁷ In such cases, public notice shall be given of the conviction.

2. If the person concerned acts through negligence, the penalty is a fine.

3. The products shall be forfeited. They may be rendered harmless or destroyed.

Art. 236Marketing of
harmful animal
feed

1 Any person who wilfully imports, stores, offers for sale or markets animal feed or animal feedstuffs that constitute a danger to animals shall be liable to a custodial sentence not exceeding three years or to a monetary penalty. Public notice shall be given of the conviction.

¹⁷⁷ Penalties revised in accordance with No II 1 para. 16 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS 2006 3459 3535; BBl 1999 1979).

² If the person concerned acts through negligence, the penalty is a fine.

³ The products shall be forfeited. They may be rendered harmless or destroyed.

Title Nine: Felonies and Misdemeanours against Public Traffic

Art. 237

Disruption of
public traffic

1. Any person who wilfully obstructs, disrupts or endangers public traffic, in particular traffic on the roads, on water or in the air and as a result knowingly causes danger to the life and limb of other people shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

If the offender thus knowingly endangers the life and limb of a large number of people, a custodial sentence of from one to ten years may be imposed.

2. If the person concerned acts through negligence, the penalty shall be a custodial sentence not exceeding three years or a monetary penalty.

Art. 238

Disruption of rail
traffic

¹ Any person who wilfully obstructs, disrupts or endangers railway services and as a result causes danger to the life, limb or property of other people, and in particular the danger of derailment or collision shall be liable to a custodial sentence or to a monetary penalty¹⁷⁸.

² If the person concerned acts through negligence and as a result causes serious danger to the life, limb or property of other people the penalty shall be a custodial sentence not exceeding three years or a monetary penalty.

Art. 239

Disruption of
public services

1. Any person who wilfully obstructs, disrupts or endangers the operation of a public service and in particular the railway, postal, telegraphic or telephone services,

any person who wilfully obstructs, disrupts or endangers the operation of a public utility or installation which provides water, light, power or heat,

¹⁷⁸ Term in accordance with No II 1 para. 15 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979). This amendment has been taken into account throughout the Second Book.

shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

2. If the person concerned acts through negligence, the penalty shall be a custodial sentence not exceeding three years or a monetary penalty.

Title Ten: Counterfeiting of Money, Official Stamps, Official Marks, Weights and Measures

Art. 240

Counterfeiting
money

¹ Any person who counterfeits coins, paper money or banknotes in order to pass these off as genuine shall be liable to a custodial sentence of not less than one year.

² In particularly minor cases, the penalty is a custodial sentence not exceeding three years or a monetary penalty.

³ The offender is also liable to the foregoing penalties if he committed the act abroad, has entered Switzerland and is not being extradited, provided the act is also an offence at the place of commission.

Art. 241

Falsification of
money

¹ Any person who alters coins, paper money or bank notes in order to pass these off at a value higher than their true value shall be liable to a custodial sentence not exceeding five years or to a monetary penalty of not less than 180 daily penalty units.¹⁷⁹

² In particularly minor cases, the penalty is a custodial sentence not exceeding three years or a monetary penalty.

Art. 242

Passing or
tendering
counterfeit
money

¹ Any person who passes or tenders counterfeit or falsified coins, paper money or bank notes as genuine money shall be liable to a custodial sentence not exceeding three years or to a monetary penalty¹⁸⁰.

² If the offender, the person instructing him or his agent accepted the coins or banknotes on the understanding that they were genuine or not falsified, the penalty shall be a custodial sentence not exceeding three years or a monetary penalty.

¹⁷⁹ Penalties revised in accordance with No II 1 para. 16 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS 2006 3459 3535; BBl 1999 1979).

¹⁸⁰ Term in accordance with No II 1 para. 2 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS 2006 3459 3535; BBl 1999 1979). This amendment has been taken into account throughout the Second Book.

Art. 243¹⁸¹

Imitation of bank notes, coins or official stamps without intent to commit forgery

¹ Any person who, without the intention of committing the offence of forgery, reproduces or imitates bank notes and thus creates the risk that persons or machines will confuse such notes with genuine notes, in particular if the overall appearance, one side or the greater part of one side of a bank note reproduces or imitates a material and a size that is identical or similar to the material and size of the original,

any person who, without the intention of committing the offence of forgery, produces objects which in their appearance, weight and size are similar to coins in circulation, or which show the nominal value or other characteristics of coins which have been officially struck, and thus creates the risk that persons or machines will confuse such coins with coins which are in circulation,

any person who, without the intention of committing the offence of forgery reproduces or imitates official stamps and thus creates the risk that such stamps will be confused with genuine stamps,

any person who imports, offers or puts into circulation such objects articles,

shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.¹⁸²

² If the person concerned acts through negligence, he shall be liable to a fine.¹⁸³

Art. 244

Import, acquisition and storage of counterfeit money

¹ Any person who imports, acquires or stores counterfeit or falsified coins, paper money or bank notes in order to pass these off as genuine or non-falsified shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.¹⁸⁴

² Any person who imports, acquires or stores such money on a large scale shall be liable to a custodial sentence of from one to five years.

Art. 245

Forgery of official stamps

¹ Any person who forges or falsifies official stamps, and in particular postage stamps, revenue stamps or fee stamps, in order to pass these off as genuine or non-falsified,

¹⁸¹ Amended in accordance with Annex No 3 of the Federal Act of 22 Dec. 1999 on Currency and Payment Instruments, in force since 1 May 2000 (SR **941.10**).

¹⁸² Penalties revised in accordance with No II 1 para. 16 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979).

¹⁸³ Penalties revised in accordance with No II 1 para. 16 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979).

¹⁸⁴ Amended in accordance with Annex No 3 of the Federal Act of 22 Dec. 1999 on Currency and Payment Instruments, in force since 1 May 2000 (SR **941.10**).

any person who gives cancelled official value stamps the appearance of being valid in order to pass them off as such,

shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

The offender is also liable to the foregoing penalties if he committed the act abroad, has entered Switzerland and is not being extradited, provided the act is also an offence at the place of commission.

2. Any person who passes off forged, falsified or cancelled official stamps as genuine, non-falsified or valid shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 246

Forgery of
official marks

Any person who forges or falsifies an official mark which the authorities affix to an object to confirm the result of an inspection or the granting of authorisation such as hallmarks, or marks stamped on goods by meat inspectors or customs officials, with the intention of passing the mark off as genuine,

any person who passes off such forged or falsified marks as genuine or non-falsified,

shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 247

Counterfeiting
equipment and
unlawful use of
equipment

Any person who constructs or acquires equipment for the forgery or falsification of coins, paper money, bank notes or official stamps in order to make unlawful use of such equipment,

any person who makes unlawful use of equipment which is used for the production of coins, paper money, bank notes or official stamps,

shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 248

Falsification of
weights and
measures

Any person who, in order to deceive others in trade or commerce,

attaches a false calibration mark to weights and measures, scales or other measuring instruments or falsifies an existing calibration mark,

makes alterations to weights and measures, scales or other measuring instruments, or

makes use of forged or falsified weights and measures, scales or other measuring instruments,

shall be liable to a custodial sentence not exceeding five years or to a monetary penalty.

Art. 249¹⁸⁵

Forfeiture

¹ Forged or falsified coins, paper money, banknotes, official stamps, official marks, weights and measures, scales or other measuring instruments as well as the counterfeiting equipment shall be forfeited and rendered unusable or destroyed.

² Banknotes, coins or official stamps that have been reproduced, imitated or produced without the intent to commit forgery, but which create a risk of confusion, shall also be forfeited and rendered unusable or destroyed.

Art. 250

Foreign currency and stamps

The provisions this Title also apply in the case of foreign coins, paper money, banknotes and stamps.

Title Eleven: Forgery**Art. 251**¹⁸⁶

Forgery of a document

1. Any person who with a view to causing financial loss or damage to the rights of another or in order to obtain an unlawful advantage for himself or another,

produces a false document, falsifies a genuine document, uses the genuine signature or mark of another to produce a false document, falsely certifies or causes to be falsely certified a fact of legal significance or,

makes use of a false or falsified document in order to deceive,

shall be liable to a custodial sentence not exceeding five years or to a monetary penalty.

2. In particularly minor cases, a custodial sentence not exceeding three years or a monetary penalty may be imposed.

Art. 252¹⁸⁷

Forgery of certificates

Any person who with the intention of furthering his own position or that of another,

forges or falsifies identity documents, references, or certificates,

uses such a document in order to deceive another,

¹⁸⁵ Amended in accordance with Annex No 3 of the Federal Act of 22 Dec. 1999 on Currency and Payment Instruments, in force since 1 May 2000 (SR **941.10**).

¹⁸⁶ Amended in accordance with No I of the Federal Act of 17 June 1994, in force since 1 Jan. 1995 (AS **1994** 2290 2307; BBl **1991** II 969).

¹⁸⁷ Amended in accordance with No I of the Federal Act of 17 June 1994, in force since 1 Jan. 1995 (AS **1994** 2290 2307; BBl **1991** II 969).

or uses a genuine document of this nature but which does not apply to him in order to deceive another,
shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 253

Obtaining a false certificate by fraud

Any person who by fraudulent means causes a public official or a person acting in an official capacity to certify an untrue fact of substantial legal significance, and in particular to certify a false signature or an incorrect copy as genuine, or
any person who makes use of a document obtained by fraud in this way in order to deceive another as to the fact certified therein,
shall be liable to a custodial sentence not exceeding five years or to a monetary penalty.

Art. 254

Suppression of documents

¹ Any person who damages, destroys, conceals or misappropriates a document over which he has no exclusive right of disposal, with a view to causing financial loss or damage to the rights of another or in order to obtain an unlawful advantage for himself or another shall be liable to a custodial sentence not exceeding five years or to a monetary penalty.
² The suppression of documents to the detriment of a relative or family member is prosecuted only on complaint.

Art. 255

Official foreign documents

Articles 251–254 also apply to official foreign documents.

Art. 256

Moving of boundary markers

Any person who, with the intention of causing financial loss or damaging the rights of another or of obtaining an unlawful advantage for himself or another, removes, moves, renders unrecognisable, falsely positions or falsifies a boundary stone or other boundary marker shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 257

Removal of survey points and water level indicators

Any person who removes, moves, renders unrecognisable or falsely positions a public survey point or water level indicator shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Title Twelve: Felonies and Misdemeanours against Public Order

Art. 258¹⁸⁸

Causing fear and alarm among the general public

Any person who causes fear and alarm among the general public by threatening or feigning a danger to life, limb or property shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 259¹⁸⁹

Public incitement to commit a felony or act of violence

¹ Any person who publicly incites others to commit a felony shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

^{1bis} Public incitement to commit genocide (Art. 264), where the intention is for the act to be carried out exclusively or partly in Switzerland, is also an offence if the incitement occurs outside Switzerland.¹⁹⁰

² Any person who publicly incites others to commit a misdemeanour that involves violence against other persons or property shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 260

Rioting

¹ Any person who takes part in a riotous assembly in public in the course of which acts of violence are committed against persons and property by the use of united force shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

² Participants who remove themselves when officially ordered to do so shall not be held to have committed an offence if they have not used violence or encouraged others to do so.

Art. 260^{bis} ¹⁹¹

Acts preparatory to the commission of an offence

¹ Any person who, in accordance with a plan, carries out specific technical or organisational measures, the nature and extent of which indicate that the offender intends to commit any of the offences listed

¹⁸⁸ Amended in accordance with No I of the Federal Act of 17 June 1994, in force since 1 Jan. 1995 (AS **1994** 2290 2307; BBl **1991** II 969).

¹⁸⁹ Amended in accordance with No I of the Federal Act of 9 Oct. 1981, in force since 1 Oct. 1982 (AS **1982** 1530 1534; BBl **1980** I 1241).

¹⁹⁰ Inserted by No I 1 of the Federal Act of 18 June 2010 on the Amendment of Federal Legislation in Implementation of the Rome Statue of the International Criminal Court, in force since 1 Jan. 2011 (AS **2010** 4963; BBl **2008** 3863).

¹⁹¹ Inserted by No I of the Federal Act of 9 Oct. 1981, in force since 1 Oct. 1982 (AS **1982** 1530 1534; BBl **1980** I 1241).

below shall be liable to a custodial sentence not exceeding five years or to a monetary penalty:

- a. Intentional homicide (Art. 111);
- b. Murder (Art. 112);
- c. Serious assault (Art. 122);
- d. Robbery (Art. 140);
- e. False imprisonment and abduction (Art. 183);
- f. Hostage taking (Art. 185);
- g. Arson (Art. 221);
- h. Genocide (Art. 264);
- i. Crimes against humanity (Art. 264a);
- j. War crimes (Art. 264c–264h).¹⁹²

² If the offender, of his own volition, does not complete the preparatory act, he shall not be liable to any penalty.

³ It shall also be an offence for any person to carry out a preparatory act abroad, provided it was intended to commit the offences in Switzerland. Article 3 paragraph 2 applies.¹⁹³

Art. 260^{ter} 194

Criminal
organisation

1. Any person who participates in an organisation, the structure and personal composition of which is kept secret and which pursues the objective of committing crimes of violence or securing a financial gain by criminal means,

any person who supports such an organisation in its criminal activities, shall be liable to a custodial sentence not exceeding five years or to a monetary penalty.

2. The court shall have the discretion to mitigate the penalty imposed (Art. 48a)¹⁹⁵ if the offender makes an effort to foil the criminal activities of the organisation.

3. The foregoing penalties also apply to any person who commits the offence outside Switzerland provided the organisation carries out or

¹⁹² Amended in accordance with No I 1 of the Federal Act of 18 June 2010 on the Amendment of Federal Legislation in Implementation of the Rome Statute of the International Criminal Court, in force since 1 Jan. 2011 (AS **2010** 4963; BBI **2008** 3863).

¹⁹³ Wording of the sentence in accordance with No II 2 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBI **1999** 1979).

¹⁹⁴ Inserted by No I of the Federal Act of 18 March 1994, in force since 1 Aug. 1994 (AS **1994** 1614 1618; BBI **1993** III 277).

¹⁹⁵ Wording of the first part-sentence in accordance with No II 2 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBI **1999** 1979).

intends to carry out its criminal activities wholly or partly in Switzerland. Article 3 paragraph 2 applies.¹⁹⁶

Art. 260^{quater} 197

Endangering
public safety
with weapons

Any person who sells, hires, gifts, hands over or procures firearms, weapons prohibited by law, essential components of weapons, weapons accessories, ammunition or components of ammunition, although he knows or must believe that the weapons are intended to be used to commit a felony or misdemeanour shall, provided his activities do not constitute a more serious offence, be liable to a custodial sentence not exceeding five years or to a monetary penalty.¹⁹⁸

Art. 260^{quinquies} 199

Financing
terrorism

¹ Any person who collects or provides funds with a view to financing a violent crime that is intended to intimidate the public or to coerce a state or international organisation into carrying out or not carrying out an act shall be liable to a custodial sentence not exceeding five years or to a monetary penalty.

² If the person merely acknowledges the possibility that the funds may be used to finance terrorism, he does not commit an offence under this Article.

³ The act does not constitute the financing of a terrorist offence if it is carried out with a view to establishing or re-establishing a democratic regime or a state governed by the rule of law or with a view to exercising or safeguarding human rights.

⁴ Paragraph 1 does not apply if the financing is intended to support acts that do not violate the rules of international law on the conduct of armed conflicts.

Art. 261

Attack on the
freedom of faith
and the freedom
to worship

Any person who publicly and maliciously insults or mocks the religious convictions of others, and in particularly their belief in God, or maliciously desecrates objects of religious veneration,

any person who maliciously prevents, disrupts or publicly mocks an act of worship, the conduct of which is guaranteed by the Constitution, or

¹⁹⁶ Wording of the sentence in accordance with No II 2 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBI **1999** 1979).

¹⁹⁷ Inserted by Art. 41 of the Weapons Act of 20 June 1997, in force since 1 Jan. 1999 (SR **514.54**).

¹⁹⁸ New designation of criminal penalties in accordance with No II 1 para. 16 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBI **1999** 1979).

¹⁹⁹ Inserted by No I 1 of the Federal Act of 21 March 2003 (Financing of Terrorism), in force since 1 Oct. 2003 (AS **2003** 3043 3047; BBI **2002** 5390).

any person who maliciously desecrates a place or object that is intended for a religious ceremony or an act of worship the conduct of which is guaranteed by the Constitution,

shall be liable to a a monetary penalty not exceeding 180 daily penalty units.

Art. 261^{bis 200}

Racial discrimination

Any person who publicly incites hatred or discrimination against a person or a group of persons on the grounds of their race, ethnic origin or religion,

any person who publicly disseminates ideologies that have as their object the systematic denigration or defamation of the members of a race, ethnic group or religion,

any person who with the same objective organises, encourages or participates in propaganda campaigns,

any person who publicly denigrates or discriminates against another or a group of persons on the grounds of their race, ethnic origin or religion in a manner that violates human dignity, whether verbally, in writing or pictorially, by using gestures, through acts of aggression or by other means, or any person who on any of these grounds denies, trivialises or seeks justification for genocide or other crimes against humanity,

any person who refuses to provide a service to another on the grounds of that person's race, ethnic origin or religion when that service is intended to be provided to the general public,

shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 262

Disturbing the peace of the dead

1. Any person who desecrates the resting place of a dead person,

Any person who maliciously disrupts or desecrates a funeral procession or funeral ceremony,

Any person who desecrates or publicly insults a dead body,

shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

2. Any person who removes a dead body or part of a dead body or the ashes of a dead person against the will of those entitled thereto shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

²⁰⁰ Inserted by Art. 1 of the Federal Act of 18 June 1993, in force since 1 Jan. 1995 (AS 1994 2887 2888; BBl 1992 III 269).

Art. 263

Committing an offence while in a state of voluntarily induced mental incapacity

¹ Any person who is incapable of forming criminal intent as a result of voluntarily induced intoxication through alcohol or drugs, and while in this state commits an act punishable as a felony or misdemeanour shall be liable to a monetary penalty not exceeding 180 daily penalty units.

² If the offender has, in this self-induced state, committed an act for which the only penalty is a custodial sentence, the penalty shall be a custodial sentence not exceeding three years or a monetary penalty.²⁰¹

Title Twelve^{bis}:²⁰²**Genocide and Crimes against Humanity****Art. 264**

Genocide

¹ The penalty shall be a custodial sentence of life or a custodial sentence of not less than ten years for any person who with the intent to destroy, in whole or in part, a group of persons characterised by their nationality, race, religion or ethnic, social or political affiliation:

- a. kills members of such a group, or seriously harms them physically or mentally;
- b. inflicts living conditions on members of such a group that are calculated to bring about its total or partial destruction;
- c. orders or takes measures that are directed towards preventing births within such a group; or
- d. forcibly transfers children in such a group to another group or arranges for such children to be forcibly transferred to another group

Art. 264a

Crimes against humanity

¹ The penalty shall be a custodial sentence of not less than five years for any person who, as part of a widespread or systematic attack directed against any civilian population:

- | | |
|-------------------------|---|
| a. Intentional homicide | a. intentionally kills another person; |
| b. Extermination | b. intentionally kills a number of persons or intentionally inflicts conditions of life calculated to bring about the destruction of all or part of the population; |

²⁰¹ Amended in accordance with No II 1 para. 16 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979).

²⁰² Inserted by No I of the Federal Act of 24 March 2000 (AS **2000** 2725; BBl **1999** 5327). Amended in accordance with No I 1 of the Federal Act of 18 June 2010 on the Amendment of Federal Legislation in Implementation of the Rome Statute of the International Criminal Court, in force since 1 Jan. 2011 (AS **2010** 4963; BBl **2008** 3863).

- | | |
|--------------------------------------|---|
| c. Enslavement | c. assumes and exercises a right of ownership over a person, in particular in the form of trafficking in persons, sexual exploitation or forced labour; |
| d. Deprivation of liberty | d. severely deprives a person of his or her liberty in violation of the fundamental rules of international law; |
| e. Enforced disappearance of persons | <p>e. and with the intention of removing a person from the protection of the law for a prolonged period of time:</p> <ol style="list-style-type: none"> 1. on behalf of or with the acquiescence of a State or political organisation, deprives that person of his or her liberty, and thereafter refuses to give information on his or her fate or whereabouts, or 2. on behalf of or with the acquiescence of a State or political organisation or in violation of a legal duty refuses to give information on the fate or whereabouts of the person concerned; |
| f. Torture | f. inflicts severe pain or suffering or a serious injury, whether physical or mental, on a person in his or her custody or under his or her control; |
| g. Violation of sexual rights | g. rapes a person of the female gender or, after she has been forcibly made pregnant, confines her unlawfully with the intent of affecting the ethnic composition of a population, forces a person to tolerate a sexual act of comparable severity or forces a person into prostitution or to be sterilised; |
| h. Deportation or forcible transfer | h. expels or by other coercive acts displaces persons from an area in which they are lawfully present; |
| i. Persecution and apartheid | i. in violation of international law and for political, racist, ethnic, religious, social or other reasons, severely denies or deprives a group of people of fundamental rights in connection with an offence under Title Twelve ^{bis} or Title Twelve ^{ter} or for the purpose of the systematic oppression or domination of an ethnic group; |
| j. Other inhumane acts | j. commits any other act of a comparable seriousness to the felonies mentioned in this paragraph and thereby causes severe pain or suffering or a serious injury, whether physical or mental, to a person. |

² In especially serious cases, and in particular where the offence affects a number of persons or the offender acts in a cruel manner, a custodial sentence of life may be imposed.

³ In less serious cases under paragraph 1 letters c–j, a custodial sentence of not less than one year may be imposed.

Title Twelve^{ter:203} War Crimes

Art. 264b

1. Scope of application

Articles 264d–264j apply in connection with international armed conflicts including occupations as well as, unless the nature the offences requires otherwise, in connection with non-international armed conflicts.

Art. 264c

2. Serious violations of the Geneva Conventions

¹ The penalty shall be a custodial sentence of not less than five years for any person who commits a serious violation of the Geneva Conventions of 12 August 1949²⁰⁴ in connection with an international armed conflict by carrying out any of the following acts against persons or property protected under the Conventions:

- a. intentional killing;
- b. taking of hostages;
- c. causing severe pain or suffering or a serious injury, whether physical or mental, in particular by torture, inhuman treatment or biological experiments;
- d. extensive destruction and appropriation of property not justified by military necessity;
- e. compelling a person to serve in the forces of a hostile power;
- f. unlawful deportation or transfer or unlawful confinement;
- g. denying the right to a fair and regular trial before the imposition or execution of a severe penalty.

² Acts in terms of paragraph 1 committed in connection with a non-international armed conflict are equivalent to serious violations of international humanitarian law if they are directed against a person or property protected by international humanitarian law.

³ In especially serious cases, and in particular where the offence affects a number of persons or the offender acts in a cruel manner, a custodial sentence of life may be imposed.

²⁰³ Inserted by No 11 of the Federal Act of 18 June 2010 on the Amendment of Federal Legislation in Implementation of the Rome Statue of the International Criminal Court, in force since 1 Jan. 2011 (AS **2010** 4963; BBl **2008** 3863).

²⁰⁴ Geneva Convention of 12 Aug. 1949 for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (GA I), SR **0.518.12**; Geneva Convention of 12 Aug. 1949 for the Amelioration of the Condition of the Wounded and Sick and Shipwrecked Members of Armed Forces at Sea (GA II), SR **0.518.23**; Geneva Convention of 12 Aug. 1949 relative to the Treatment of Prisoners of War (GA III), SR **0.518.42**; Geneva Convention of 12 Aug. 1949 relative to the Protection of Civilian Persons in Time of War (GA IV), SR **0.518.51**.

⁴ In less serious cases under paragraph 1 letters c–g, a custodial sentence of not less than one year may be imposed.

Art. 264d

3. Other war crimes
a. Attacks on civilians and civilian objects

¹ The penalty shall be a custodial sentence of not less than three years for any person who in connection with an armed conflict directs an attack:

- a. against the civilian population as such or against individual civilians not taking direct part in hostilities;
- b. against personnel, installations, material or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations of 26 June 1945²⁰⁵, as long as they are entitled to the protection of international humanitarian law;
- c. against civilian objects, undefended settlements or buildings or demilitarised zones that are not military objectives;
- d. against medical units, material or vehicles using a distinctive emblem under international humanitarian law or whose protected character is recognisable even without a distinctive emblem, hospitals and places where the sick and wounded are collected;
- e. against cultural property or persons entrusted with its protection or vehicles for its transport, against buildings dedicated to religion, education, art, science or charitable purposes, provided they are protected by international humanitarian law.

² In especially serious cases of attacks on persons, a custodial sentence of life may be imposed.

³ In less serious cases, a custodial sentence of not less than one year may be imposed.

Art. 264e

b. Unjustified medical treatment, violation of sexual rights and human dignity

¹ The penalty shall be a custodial sentence of not less than three years for any person who, in connection with an armed conflict:

- a. causes severe pain or suffering or serious injury or danger, whether physical or mental, to a person protected by international humanitarian law by subjecting that person to a medical procedure that is not justified by the state of his or her health and which does comply with generally recognised medical principles;

- b. rapes a person of the female gender protected by international humanitarian law or, after she has been forcibly made pregnant, confines her unlawfully with the intent of affecting the ethnic composition of a population, forces a person to tolerate a sexual act of comparable severity or forces a person protected by international humanitarian law into prostitution or to be sterilised;
- c. subjects a person protected by international humanitarian law to especially humiliating and degrading treatment.

² In especially serious cases, and in particular where the offence affects a number of persons or the offender acts in a cruel manner, a custodial sentence of life may be imposed.

³ In less serious cases, a custodial sentence of not less than one year may be imposed.

Art. 264f

c. Recruitment and use of child soldiers

¹ The penalty shall be a custodial sentence of not less than three years for any person who enlists a child under the age of fifteen years into armed forces or groups or recruiting them for this purpose or using them to participate in armed conflicts.

² In especially serious cases, and in particular where the offence affects a number of children or the offender acts in a cruel manner, a custodial sentence of life may be imposed

³ In less serious cases, a custodial sentence of not less than one year may be imposed.

Art. 264g

d. Prohibited methods of warfare

¹ The penalty shall be a custodial sentence of not less than three years for any person who, in connection with an armed conflict:

- a. launches an attack although he knows or must assume that such an attack will cause loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated;
- b. uses a person protected by international humanitarian law as a human shield in order to influence military operations;
- c. as a method of warfare, pillages or otherwise unlawfully appropriates property or destroys or seizes enemy property in a way not imperatively demanded by the necessities of war, deprives civilians of objects indispensable to their survival or impedes relief supplies;

- d. kills or wounds an enemy combatant treacherously or after he or she has laid down his or her arms or no longer has a means of defence;
- e. mutilates a dead enemy combatant;
- f. as the commander orders that no quarter be given or threatens the enemy that no quarter will be given;
- g. makes improper use of a flag of truce, of the flag or of the military insignia and uniform of the enemy or of the United Nations, or the distinctive emblems under international humanitarian law;
- h. as a member of an occupying power, transfers parts of its own civilian population into the territory it is occupying or deports all or parts of the population of the occupied territory within or outside that territory.

² In especially serious cases, and in particular where the offence affects a number of persons or the offender acts in a cruel manner, a custodial sentence of life may be imposed.

³ In less serious cases, a custodial sentence of not less than one year may be imposed.

Art. 264h

e. Use of prohibited weapons

¹ The penalty shall be a custodial sentence of not less than three years for any person who, in connection with an armed conflict:

- a. employs poison or poisoned weapons;
- b. employs biological or chemical weapons, including poisonous or asphyxiating gases, substances and liquids;
- c. employs bullets which expand or flatten easily or explode in the human body;
- d. employs weapons primarily designed to cause injury through splinters that cannot be detected by x-ray equipment;
- e. employs laser weapons primarily designed to cause permanent blindness.

² In especially serious cases, a custodial sentence of life may be imposed

Art. 264i

4. Violation of a ceasefire or peace agreement. Offences against a peace negotiator. Delayed repatriation of prisoners of war

The penalty shall be a custodial sentence not exceeding three years or a monetary penalty for any person who:

- a. continues military operations after receiving official notification of an agreement on a ceasefire or a peace agreement, or violates the conditions of the ceasefire in some other way;

- b. abuses, insults or without reason obstructs an opposing peace negotiator or any of his party;
- c. without justification, delays the repatriation of prisoners of war after conclusion of military operations.

Art. 264j

5. Other violations of international humanitarian law

The penalty shall be a custodial sentence not exceeding three years or a monetary penalty for any person who in connection with an armed conflict violates a provision of international humanitarian law other than those mentioned in Articles 264c–264i, where such a violation is declared to be an offence under customary international law or an international treaty recognised as binding by Switzerland.

Title Twelve^{quarter;206}

Common Provisions for Title Twelve^{bis} and Title Twelve^{ter}

Art. 264k

Criminal liability of superiors

¹ A superior who is aware that a subordinate is carrying out or will carry out an act under the Title Twelve^{bis} or Title Twelve^{ter} and who fails to take appropriate measures to prevent the act is liable to the same penalty as the perpetrator of the act. If the superior fails to prevent the act through negligence, the penalty shall be a custodial sentence not exceeding three years or a monetary penalty.

² A superior who is aware that a subordinate has carried out an act under Title Twelve^{bis} or Title Twelve^{ter} and who fails to take appropriate measures to ensure the prosecution of the perpetrator of the act shall be liable to a custodial sentence not exceeding three years or a monetary penalty.

Art. 264l

Acting on orders

A subordinate who, on orders from a superior or on orders of equivalent binding effect, carries out an act under Title Twelve^{bis} or Title Twelve^{ter} is guilty of an offence if he was aware at the time that the act is an offence.

Art. 264m

Acts carried out abroad

¹ A person who carries out an act under Title Twelve^{bis}, Title Twelve^{ter} or Article 264k while abroad is guilty of an offence if he is in Switzer-

²⁰⁶ Inserted by No 11 of the Federal Act of 18 June 2010 on the Amendment of Federal Legislation in Implementation of the Rome Statue of the International Criminal Court, in force since 1 Jan. 2011 (AS 2010 4963; BBl 2008 3863).

land and is not extradited to another State or delivered to an international criminal court whose jurisdiction is recognised by Switzerland.

² Where the victim of the act carried out abroad is not Swiss and the perpetrator is not Swiss, the prosecution, with the exception of measures to secure evidence, may be abandoned or may be dispensed with provided:

- a. a foreign authority or an international criminal court whose jurisdiction is recognised by Switzerland is prosecuting the offence and the suspected perpetrator is extradited or delivered to the court; or
- b. the suspected perpetrator is no longer in Switzerland and is not expected to return there.

³ Article 7 paragraphs 4 and 5 applies unless the acquittal, or the remission or application of time limits to execution of the sentence abroad has the aim of protecting the offender from punishment without justification.

Art. 264n

Exclusion of
relative immunity

The prosecution of offences under Title Twelve^{bis}, Title Twelve^{ter} and under Article 264k does not require authorisation in accordance with any of the following provisions:

- a. Article 7 paragraph 2 letter b of the Criminal Procedure Code²⁰⁷;
- b. Article 14 and 15 of the Government Liability Act of 14 March 1958²⁰⁸;
- c. Article 17 of the Parliament Act of 13 December 2002²⁰⁹;
- d. Article 61a of the Government and Administration Organisation Act of 21 March 1997²¹⁰;
- e. Article 11 of the Federal Supreme Court Act of 17 June 2005²¹¹;
- f. Article 12 of the Federal Administrative Court Act of 17 June 2005²¹²;
- g. Article 16 of the Patent Court Act of 20. March 2009²¹³;
- h. Article 50 of the Criminal Justice Authorities Act of 19 March 2010²¹⁴.

²⁰⁷ SR **312.0**

²⁰⁸ SR **170.32**

²⁰⁹ SR **171.10**

²¹⁰ SR **172.010**

²¹¹ SR **173.110**

²¹² SR **173.32**

²¹³ SR **173.41**

Title Thirteen: Felonies and Misdemeanours against the State and National Security

Art. 265

1. Felonies
and misdemean-
ours against the
state.
High treason

Any person who carries out an act with the aim, through the use of violence,
of changing the constitution of the Confederation²¹⁵ or of a canton²¹⁶,
of deposing the constitutionally appointed state authorities or rendering them unable to exercise their powers, or
of severing an area of Swiss territory from the Confederation or a part of cantonal territory from a canton,
shall be liable to a custodial sentence of not less than one year²¹⁷.

Art. 266

Attacks on the
independence of
the Confedera-
tion

1. Any person who carries out an act with the aim of,
violating or endangering the independence of the Confederation or
endangering the independence of the Confederation by bringing about the interference of a foreign power in federal affairs,
shall be liable to a custodial sentence of not less than one year.

^{2,218} Any person who enters into a relationship with the government of a foreign state or its agents with the aim of bringing about a war against the Confederation shall be liable to a custodial sentence of not less than three years.

In serious cases a life sentence may be imposed.

Art. 266^{bis} 219

Foreign opera-
tions and
activities
directed against
the security of
Switzerland

¹ Any person who with a view to bringing about or supporting foreign operations or activities directed against the security of Switzerland, contacts a foreign state, foreign parties, or other foreign organisations or their agents, or issues or disseminates false or distorted information

²¹⁴ SR 173.71

²¹⁵ SR 101

²¹⁶ SR 131.211/235

²¹⁷ Term in accordance with No II 1 para. 11 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS 2006 3459 3535; BBl 1999 1979). This amendment has been taken into account throughout the Second Book.

²¹⁸ Amended in accordance with No I of the Federal Act of 5 Oct. 1950, in force since 5 Jan. 1951 (AS 1951 I 16; BBl 1949 I 1249).

²¹⁹ Inserted by No I of the Federal Act of 5 Oct. 1950, in force since 5 Jan. 1951 (AS 1951 I 16; BBl 1949 I 1249).

shall be liable to a custodial sentence not exceeding five years or to a monetary penalty.

² In serious cases, a custodial sentence of not less than one year may be imposed.

Art. 267

Diplomatic
treason

1. Any person who wilfully makes known or makes accessible to a foreign state or its agents or to the general public a secret, the preservation of which is necessary in the interests of the Confederation,²²⁰

any person who falsifies, destroys, disposes of or steals documents or evidence relating to legal relations between the Confederation or a canton and a foreign state and thus endangers the interests of the Confederation or the canton, or

any person who, as the authorised representative of the Confederation, conducts negotiations with a foreign government which are intended to be detrimental to the Confederation,

shall be liable to a custodial sentence of not less than one year.

2.²²¹ Any person who wilfully makes known or makes accessible to the general public a secret, the preservation of which is necessary in the interests of the Confederation shall be liable to a custodial sentence not exceeding five years or to a monetary penalty.

3.²²² If the person concerned acts through negligence, the penalty shall be a custodial sentence not exceeding three years or a monetary penalty.

Art. 268

Moving of
national
boundary
markers

Any person who removes, moves, renders unrecognisable, falsely positions or falsifies a boundary stone or other boundary marker which serves to indicate a national, cantonal or communal boundary shall be liable to a custodial sentence not exceeding five years or to a monetary penalty.

Art. 269

Violation of
Swiss territorial
sovereignty

Any person forcibly enters Swiss territory in violation of international law shall be liable to a custodial sentence or to a monetary penalty.

²²⁰ Amended in accordance with No I of the Federal Act of 10 Oct. 1997, in force since 1 April 1998 (AS **1998** 852 856; BBl **1996** IV 525).

²²¹ Inserted by No I of the Federal Act of 10 Oct. 1997, in force since 1 April 1998 (AS **1998** 852 856; BBl **1996** IV 525).

²²² Originally No 2.

Art. 270

Attacks on Swiss
national
emblems

Any person who maliciously removes, damages or acts in an insulting manner towards a Swiss national emblem which is displayed by a public authority, and in particular the coat of arms or the flag of the Confederation or a canton shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 271²²³

Unlawful
activities on
behalf of a
foreign state

1. Any person who carries out activities on behalf of a foreign state on Swiss territory without lawful authority, where such activities are the responsibility of a public authority or public official,

any person who carries out such activities for a foreign party or organisation,

any person who encourages such activities,

shall be liable to a custodial sentence not exceeding three years or to a monetary penalty, or in serious cases to a custodial sentence of not less than one year.²²⁴

2. Any person who abducts another by using violence, false pretences or threats and takes him abroad in order to hand him over to a foreign authority, party or other organisation or to expose him to a danger to life or limb shall be liable to a custodial sentence of not less than one year.

3. Any person who makes preparations for such an abduction shall be liable to a custodial sentence or to a monetary penalty.

Art. 272²²⁵

2. Espionage.
Political
espionage

1. Any person who provides political intelligence-gathering services or organises such services in the interest of a foreign state, a foreign party or any other foreign organisation, to the detriment of Switzerland or its citizens, inhabitants or organisations,

any person who recruits or encourages others to provide such services, shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

2. In serious cases, the penalty is a custodial sentence of not less than one year. A serious case is constituted, in particular, where the of-

²²³ Amended in accordance with No I of the Federal Act of 5 Oct. 1950, in force since 5 Jan. 1951 (AS **1951** I 16; BBI **1949** I 1249).

²²⁴ Penalties revised in accordance with No II 1 para. 16 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBI **1999** 1979).

²²⁵ Amended in accordance with No I of the Federal Act of 5 Oct. 1950, in force since 5 Jan. 1951 (AS **1951** I 16; BBI **1949** I 1249).

fender incites activities or makes false reports such that the internal or external security of the Confederation is threatened.

Art. 273

Industrial espionage

Any person who obtains a manufacturing or trade secret in order to make it available to an external official agency, a foreign organisation, a private enterprise, or the agents of any of these, or,

any person who makes a manufacturing or trade secret available to an external official agency, a foreign organisation, a private enterprise, or the agents of any of these,

shall be liable to a custodial sentence not exceeding three years or to a monetary penalty, or in serious cases to a custodial sentence of not less than one year. Any custodial sentence may be combined with a monetary penalty.²²⁶

Art. 274²²⁷

Military espionage

1. Any person who conducts, organises, recruits others to conduct or encourages military intelligence-gathering services on behalf of a foreign state and to the detriment of Switzerland,

shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

In serious cases, a custodial sentence of not less than one year may be imposed.

2. Any correspondence and materials will be confiscated.

Art. 275²²⁸

3. Endangering the constitutional order.

Attacks on the constitutional order

Any person who carries out an act which is intended to disrupt or alter the constitutional order of the Confederation²²⁹ or the cantons²³⁰ in an unlawful manner shall be liable to a custodial sentence not exceeding five years or to a monetary penalty.

²²⁶ Penalties revised in accordance with No II 1 para. 16 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979).

²²⁷ Amended in accordance with No I of the Federal Act of 5 Oct. 1950, in force since 5 Jan. 1951 (AS **1951** 1 16; BBl **1949** 1 1249).

²²⁸ Amended in accordance with No I of the Federal Act of 5 Oct. 1950, in force since 5 Jan. 1951 (AS **1951** 1 16; BBl **1949** 1 1249).

²²⁹ SR **101**

²³⁰ SR **131.211/.235**

Subversive
propaganda

Art. 275^{bis} 231

Any person who disseminates foreign propaganda which is intended to bring about the violent overthrow of the constitutional order of the Confederation or a canton shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Unlawful
association

Art. 275^{ter} 232

Any person who founds an association, the aim of which or the activity of which involves the commission of acts that are offences under Articles 265, 266, 266^{bis}, 271–274, 275 and 275^{bis},

any person who joins such an association or participates in its activities, and

any person who calls for the formation of such an association or follows its instructions,

shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 276

4. Disruption of
military security.
Incitement and
inducement to
violate military
duties

1. Any person who publicly incites others to disobey military orders, to violate military duties, to refuse to perform military service or to desert, and

any person who induces a person obliged to perform military service to carry out such an act,

shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

2. Where the incitement or inducement relates to mutiny or the preparation for mutiny, the penalty shall be a custodial sentence or a monetary penalty.

Art. 277

Forgery of
military orders
or instructions

1. Any person who wilfully forges, falsifies, suppresses or removes a call-up order, mobilisation order or marching order, or instructions intended for those obliged to perform military service, and

any person who makes use of such a forged or falsified order or instruction,

shall be liable to a custodial sentence or to a monetary penalty.

231 Inserted by No I of the Federal Act of 5 Oct. 1950, in force since 5 Jan. 1951 (AS 1951 I 16; BBl 1949 I 1249).

232 Inserted by No I of the Federal Act of 5 Oct. 1950, in force since 5 Jan. 1951 (AS 1951 I 16; BBl 1949 I 1249).

2. If the person concerned acts through negligence, the penalty shall be a custodial sentence not exceeding three years or a monetary penalty.

Art. 278

Disruption of
military service

Any person who prevents a member of the armed forces from carrying out his military service or obstructs him in the course of his service shall be liable to a monetary penalty not exceeding 180 daily penalty units.

Title Fourteen: Misdemeanours against the Will of the People

Art. 279

Disruption and
obstruction of
elections and
votes

Any person who by the use of violence or the threat of seriously detrimental consequences obstructs or disrupts a meeting, election or vote organised under the terms of the constitution or the law, and

any person who by the use of violence or the threat of seriously detrimental consequences obstructs or disrupts the collection of signatures for or the handing-over of a petition requesting a referendum or initiative,

shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 280

Attacks on the
right to vote

Any person who by the use of violence or the threat of seriously detrimental consequences prevents a voter from exercising his right to vote or to sign a petition requesting a referendum or initiative, and

any person who by the use of violence or the threat of seriously detrimental consequences coerces a voter into exercising his voting rights or into voting in a particular way,

shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 281

Corrupt electoral
practices

Any person who offers, promises, or gives a voter or arranges for a voter to be given a gift or other advantage in return for voting in a particular way, or in return for signing or refusing to sign a request for a referendum or an initiative,

any person who offers, promises, or gives a voter or arranges for a voter to be given a gift or other advantage in return for not participating in an election or vote, and

any person who as a voter secures the promise of or arranges for himself to be given such an advantage,

shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 282

Electoral fraud

1. Any person who forges, falsifies, removes or destroys an electoral register,

any person who participates in an election or a vote, or signs a request for a referendum or an initiative without authority, and

any person who falsifies the results of an election or vote or a petition requesting a referendum or initiative, in particular by adding, altering, omitting, deleting ballot papers or signatures, counting them incorrectly or incorrectly certifying the result,

shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

2. If the offender acts in official capacity, the penalty shall be a custodial sentence not exceeding three years or to a monetary penalty of not less than 30 daily penalty units. The custodial sentence may be combined with a monetary penalty.²³³

Art. 282^{bis} 234

Vote catching

Any person who systematically collects, completes or alters ballot papers, or distributes ballot papers which have been completed or altered in this way shall be liable to a fine.

Art. 283

Breach of voting secrecy

Any person who obtains knowledge by unlawful means of how individuals have voted shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 284²³⁵

²³³ Penalties revised in accordance with No II 1 para. 16 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS 2006 3459 3535; BBl 1999 1979).

²³⁴ Inserted by Art. 88 No I of the Federal Act of 17 Dec. 1976 on Political Rights, in force since 1 July 1978 (SR 161.1).

²³⁵ Repealed by No I of the Federal Act of 18 March 1971 (AS 1971 777; BBl 1965 I 561).

Title Fifteen: Offences against Official Powers

Art. 285

Violence and threats against public authorities and public officials

1.²³⁶ Any person who by the use of violence or threats prevents an authority, one of its members or a public official from carrying out an official act, or coerces them to carry out such an act, or attacks them while they are carrying out such an act shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Public officials also include employees of undertakings in terms of the Railways Act of 20 December 1957²³⁷, the Passenger Transport Act of 20 March 2009²³⁸ and the Goods Transport Act of 19 December 2008²³⁹, as well as employees of organisations operating with a licence from the Federal Office of Transport under the Federal Act of 18 June 2010²⁴⁰ on the Security Units of Public Transport Companies.

2. If the offence is committed by a mob, anyone who participates in the mob shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.²⁴¹

Any participant who uses violence against persons or property shall be liable to a custodial sentence not exceeding three years or to a monetary penalty of not less than 30 daily penalty units.²⁴²

Art. 286²⁴³

Prevention of an official act

Any person who prevents a public authority, one of its members or a public official from carrying out an act which is one of their official duties shall be liable to a monetary penalty not exceeding 30 daily penalty units.

Public officials also include employees of undertakings in terms of the Railways Act of 20 December 1957²⁴⁴, the Passenger Transport Act of 20 March 2009²⁴⁵ and the Goods Transport Act of 19 December 2008²⁴⁶, as well as employees of organisations operating with a licence

²³⁶ Amended in accordance with No I of the Federal Act of 5 Oct. 1950, in force since 5 Jan. 1951 (AS **1951** 1 16; BBl **1949** 1 1249).

²³⁷ SR **742.101**

²³⁸ SR **745.1**

²³⁹ SR **742.41**

²⁴⁰ SR **745.2**

²⁴¹ Amended in accordance with Art. 11 para. 2 of the Federal Act of 18 June 2010 on the Security Units of Public Transport Companies, in force since 1 Oct. 2011 (AS **2011** 3961; BBl **2010** 891 915).

²⁴² Penalties revised in accordance with No II 1 para. 16 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979).

²⁴³ Amended in accordance with No I of the Federal Act of 5 Oct. 1950, in force since 5 Jan. 1951 (AS **1951** 1 16; BBl **1949** 1 1249).

²⁴⁴ SR **742.101**

²⁴⁵ SR **745.1**

²⁴⁶ SR **742.41**

from the Federal Office of Transport under the Federal Act of 18 June 2010²⁴⁷ on the Security Units of Public Transport Companies.²⁴⁸

Art. 287

Usurpation of office

Any person who with unlawful intention usurps the exercise of an official function or military command shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 288²⁴⁹

Removal of seized property

Art. 289

Any person who removes from official control an item of property which has been officially seized shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 290

Breaking the seals

Any person who breaks open, removes or renders ineffective an official mark and in particular an official seal which is used to close or identify an object shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 291

Breach of an expulsion order

¹ Any person who breaches an order issued by a competent authority to expel him from the territory of the Swiss Confederation or a canton shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

² The duration the sentence is not taken into account in determining the length of the period of expulsion.

Art. 292

Contempt of official orders

Any person who fails to comply with an official order that has been issued to him by a competent authority or public official under the threat of the criminal penalty for non-compliance in terms of this Article shall be liable to a fine.

²⁴⁷ SR 745.2

²⁴⁸ Amended in accordance with Art. 11 para. 2 of the Federal Act of 18 June 2010 on the Security Units of Public Transport Companies, in force since 1 Oct. 2011 (AS 2011 3961; BBl 2010 891 915).

²⁴⁹ Repealed by No 11 of the Federal Act of 22 Dec. 1999 (Revision of the Criminal Law on Corruption) (AS 2000 1121; BBl 1999 5497).

Art. 293

Publication of
secret official
proceedings

¹ Any person who without authorisation publishes information from the files, proceedings or official investigations of a public authority which have been declared secret by that authority in accordance with its powers shall be liable to a fine.

² Complicity is also a criminal offence.

³ The court may waive the penalty if the secret made public is of negligible importance.²⁵⁰

Art. 294

Breach of a
prohibition from
practising a
profession

Any person who practises a profession or carries on a trade or commercial business in breach of a penal judgement shall be liable to a custodial sentence not exceeding one year or to a monetary penalty.²⁵¹

Art. 295²⁵²**Title Sixteen: Offences detrimental to Foreign Relations****Art. 296**²⁵³

Insulting a
foreign state

Any person who publicly insults a foreign state in the person of its head of state, the members of its government, its diplomatic representatives, its official delegates to a diplomatic conference taking place in Switzerland, or one of its official representatives to an international organisation or department thereof based or sitting in Switzerland shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 297²⁵⁴

Insulting an
international
organisation

Any person who publicly insults an international organisation or department thereof based or sitting in Switzerland in the person of one of its official representatives shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

²⁵⁰ Inserted by No I of the Federal Act of 10 Oct. 1997, in force since 1 April 1998 (AS **1998** 852 856; BBl **1996** IV 525).

²⁵¹ Scope of penalty increased by No II 1 para. 17 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979).

²⁵² Repealed by No II 3 of the Federal Act of 13 Dec. 2002, with effect from 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979).

²⁵³ Amended in accordance with No I of the Federal Act of 5 Oct. 1950, in force since 5 Jan. 1951 (AS **1951** 1 16; BBl **1949** 1 1249).

²⁵⁴ Amended in accordance with No I of the Federal Act of 5 Oct. 1950, in force since 5 Jan. 1951 (AS **1951** 1 16; BBl **1949** 1 1249).

Art. 298

Attacks on the national emblems of a foreign state

Any person who wilfully removes, damages or conducts himself in an insulting manner towards a national emblem of a foreign state, and in particular its coat of arms or flag which is publicly displayed by one of its official representatives shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 299

Violation of foreign territorial sovereignty

1. Any person who violates the territorial sovereignty of a foreign state, in particular by conducting official activities without authorisation on foreign territory,

any person who enters foreign territory in breach of international law, shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

2. Any person who attempts from within Swiss territory to disrupt the political order of a foreign state through the use of force shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 300

Hostility towards a country at war or foreign troops

Any person who from neutral Swiss territory acts in a hostile manner towards or supports hostile acts against a country at war,

any person who acts in a hostile manner towards foreign troops who have been admitted to Switzerland,

shall be liable to a custodial sentence or to a monetary penalty.

Art. 301

Military espionage against a foreign state

1. Any person who conducts or organises the conduct of military intelligence gathering services on Swiss territory for a foreign state against another foreign state, and

any person who recruits persons for, or encourages others to provide such services,

shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

2. Any correspondence and other materials shall be forfeited.

Art. 302²⁵⁵

Prosecution

¹ Felonies and misdemeanours under this Title shall only be prosecuted on the authority of the Federal Council.

² The Federal Council shall order a prosecution only if a request to do so is received from the government of the foreign state in the case of Article 296 or from a governing officer of the international organisation in the case of Article 297. In times of active service, the Federal Council may also order a prosecution in the absence of a request.

³ In the case of Articles 296 and 297, the right to prosecution is subject to a time limit of two years.²⁵⁶

**Title Seventeen:
Felonies and Misdemeanours against the Administration of Justice**

Art. 303

False accusation

1. Any person who makes an accusation to the authorities that a person whom he knows to be innocent has committed a felony or a misdemeanour, with the intention of causing a criminal prosecution to be brought against that person,

any person who otherwise carries out malicious acts with the intention of causing a criminal prosecution to be brought against a person whom he knows to be innocent,

shall be liable to a custodial sentence or to a monetary penalty.

2. If the false accusation relates to a contravention, the penalty shall be a custodial sentence not exceeding three years or a monetary penalty.

Art. 304

Misleading the judicial authorities

1. Any person who reports the commission of a criminal offence to the judicial authorities which he knows has not been committed,

any person who falsely reports to the judicial authorities that he has himself committed an offence,

shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

²⁵⁵ Amended in accordance with No I of the Federal Act of 5 Oct. 1950, in force since 5 Jan. 1951 (AS **1951** 1 16; BBl **1949** 1 1249).

²⁵⁶ Amended in accordance with No I of the Federal Act of 22 March 2002 (Limitation of the Right to Prosecute), in force since 1 Oct. 2002 (AS **2002** 2986 2988; BBl **2002** 2673 1649).

2. In particularly minor cases, the court may waive the imposition of a penalty.

Art. 305

Assisting
offenders

¹ Any person who assists another to evade prosecution, the execution of a sentence, or the execution of any of the measures provided for in Articles 59–61, 63 and 64²⁵⁷ shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

^{1bis} Any person who assists a person who is being prosecuted or has been convicted outside Switzerland in respect of a felony in accordance with Article 101 to evade prosecution or the execution of a custodial sentence or a measure within the meaning of Articles 59–61, 63 or 64 in that place shall be liable to the same penalties as in paragraph 1.²⁵⁸

² The court may waive the imposition of a penalty where the person committing an offence in terms of this Article is so closely related to the person receiving his assistance that his conduct is excusable.

Art. 305^{bis} 259

Money
laundering

1. Any person who carries out an act that is aimed at frustrating the identification of the origin, the tracing or the forfeiture of assets which he knows or must believe originate from a felony,

shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

2. In serious cases, the penalty shall be a custodial sentence not exceeding five years or a monetary penalty. A custodial sentence shall be combined with a monetary penalty not exceeding 500 daily penalty units.²⁶⁰

A serious case is constituted, in particular, where the offender:

- a. acts as a member of a criminal organisation;
- b. acts as a member of a group that has been formed for the purpose of the continued conduct of money laundering activities; or
- c. achieves a large turnover or substantial profit through commercial money laundering.

²⁵⁷ Part of sentence amended in accordance with No II 2 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS 2006 3459 3535; BBl 1999 1979).

²⁵⁸ Inserted by No I of the Federal Act of 9 Oct. 1981, in force since 1 Oct. 1982 (AS 1982 1530 1534; BBl 1980 I 1241).

²⁵⁹ Inserted by No I of the Federal Act of 23 March 1990, in force since 1 Aug. 1990 (AS 1990 1077 1078; BBl 1989 II 1061).

²⁶⁰ Penalties revised in accordance with No II 1 para. 16 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS 2006 3459 3535; BBl 1999 1979).

3. The offender shall also be liable to the foregoing penalties where the main offence was committed abroad, provided such an offence is also liable to prosecution at the place of commission.²⁶¹

Art. 305^{ter} 262

Insufficient diligence in financial transactions and right to report²⁶³

¹ Any person who as part of his profession accepts, holds on deposit, or assists in investing or transferring outside assets and fails to ascertain the identity of the beneficial owner of the assets with the care that is required in the circumstances shall be liable to a custodial sentence not exceeding one year or to a monetary penalty.²⁶⁴

² The persons included in paragraph 1 above shall be entitled to report to the internal criminal justice authorities or the federal authorities designated by law any observations that indicate that assets originate from a felony.²⁶⁵

Art. 306

Perjury by a party to civil proceedings

¹ Any person who is a party to civil proceedings and, following an express caution by the judge that he must tell the truth and notification of the penalties for failure to do so, gives false evidence in relation to the case shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

² If the offender testifies on oath or affirmation, the penalty shall be a custodial sentence not exceeding three years or a monetary penalty of not less than 90 daily penalty units.²⁶⁶

Art. 307

Perjury.
Perjury by an expert witness.
False translation

¹ Any person who appears in judicial proceedings as a witness, expert witness, translator or interpreter and gives false evidence or provides a false report, a false expert opinion or a false translation in relation to the case shall be liable to a custodial sentence not exceeding five years or to a monetary penalty.

² If the statement, report, expert opinion or translation is made on oath or affirmation, the penalty shall be a custodial sentence not exceeding

²⁶¹ Corrected by the Drafting Committee of the Federal Assembly [Art. 33 GVG – AS 1974 1051].

²⁶² Inserted by No I of the Federal Act of 23 March 1990, in force since 1 Aug. 1990 (AS 1990 1077 1078; BBl 1989 II 1061).

²⁶³ Amended in accordance with No I of the Federal Act of 18 March 1994, in force since 1 Aug. 1994 (AS 1994 1614 1618; BBl 1993 III 277).

²⁶⁴ Penalties revised in accordance with No II 1 para. 16 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS 2006 3459 3535; BBl 1999 1979).

²⁶⁵ Inserted by No I of the Federal Act of 18 March 1994, in force since 1 Aug. 1994 (AS 1994 1614 1618; BBl 1993 III 277).

²⁶⁶ Penalties revised in accordance with No II 1 para. 16 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS 2006 3459 3535; BBl 1999 1979).

five years or a monetary penalty of not less than 180 daily penalty units.²⁶⁷

³ If the false statement relates to matters that are irrelevant to the judicial decision, the penalty shall be a monetary penalty not exceeding 180 daily penalty units.²⁶⁸

Art. 308

Mitigation of the sentence

¹ If the offender makes his false accusation (Art. 303), false report of an offence (Art. 304) or testimony (Art. 306 and 307) of his own accord and before it has caused any legal detriment to others, the court may reduce the sentence (Art. 48a) or waive a penalty.²⁶⁹

² If the offender perjured himself (Art. 306 and 307) because by testifying truthfully he or his close relative would risk prosecution, the court may reduce the sentence (Art. 48a).²⁷⁰

Art. 309²⁷¹

Administrative cases and proceedings before international courts

Articles 306–308 also apply to:

- a. the administrative court proceedings, arbitration proceedings and proceedings before public authorities and public officials who are entitled to examine witnesses;
- b. proceedings before international courts where Switzerland recognises their mandatory jurisdiction.

Art. 310

Assisting prisoners to escape

1. Any person who by using force, threats or false pretences, frees or assists in the escape of a person under arrest, a convicted prisoner or a person committed to an institution by official order shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

2. If the act is committed by a mob, any person who participates in the mob shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

²⁶⁷ Penalties revised in accordance with No II 1 para. 16 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS 2006 3459 3535; BBl 1999 1979).

²⁶⁸ Penalties revised in accordance with No II 1 para. 16 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS 2006 3459 3535; BBl 1999 1979).

²⁶⁹ Last part of sentence amended in accordance with No II 2 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS 2006 3459 3535; BBl 1999 1979).

²⁷⁰ Last part of sentence amended in accordance with No II 2 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS 2006 3459 3535; BBl 1999 1979).

²⁷¹ Amended in accordance with No I 1 of the Federal Act of 22 June 2001 (Offences against the Administration of Justice before International Courts), in force since 1 July 2002 (AS 2002 1491 1492; BBl 2001 391).

Participants who commit acts of violence against persons or property shall be liable to a custodial sentence not exceeding three years or to a monetary penalty of not less than 30 daily penalty units.²⁷²

Art. 311

Prison mutiny

1. Convicted prisoners or other persons who have been committed to an institution by official order who form a riotous assembly with the common intent

to attack the officers of the institution or other persons entrusted with their supervision,

to coerce these persons by force or the threat of force to carry out acts or abstain from carrying out acts, or

to break out of the institution by using force,

shall be liable to a custodial sentence not exceeding three years or to a monetary penalty of not less than 30 daily penalty units.²⁷³

2. Participants who commit acts of violence against persons or property shall be liable to a custodial sentence not exceeding five years or to a monetary penalty of not less than 90 daily penalty units.²⁷⁴

Title Eighteen: Offences against Official or Professional Duty

Art. 312

Abuse of public office

Any member of an authority or a public official who abuses his official powers in order to secure an unlawful advantage for himself or another or to cause prejudice to another shall be liable to a custodial sentence not exceeding five years or to a monetary penalty.

Art. 313

Overcharging of taxes

Any public official who for unlawful gain levies taxes, fees or other charges which are not due or which exceed the statutory rates shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

²⁷² Penalties revised in accordance with No II 1 para. 16 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979).

²⁷³ Penalties revised in accordance with No II 1 para. 16 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979).

²⁷⁴ Penalties revised in accordance with No II 1 para. 16 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979).

Misconduct in
public office

Art. 314²⁷⁵

Any member of an authority or public official who, in the course of a legal transaction and with a view to obtaining an unlawful advantage for himself or another, damages the public interests that he has a duty to safeguard shall be liable to a custodial sentence not exceeding five years or to a monetary penalty. A custodial sentence must be combined with a monetary penalty.²⁷⁶

Art. 315–316²⁷⁷

Art. 317²⁷⁸

Forgery of a
document by a
public official

1. Any public official or person acting in an official capacity who wilfully forges or falsifies a document or uses the genuine signature or handwriting of another to produce a false document,

any public official or person acting in an official capacity who wilfully falsely certifies a fact of legal significance, and in particular falsely certifies the authenticity of a signature or handwriting or the accuracy of a copy,

shall be liable to a custodial sentence not exceeding five years or to a monetary penalty.

2. If the person concerned acts through negligence, the penalty is a fine.

Art. 317^{bis 279}

Exempted acts

¹ Any person who, as part of a covert investigation, produces, amends or uses documents with the authority of a court in order to construct or maintain his cover story does not commit an offence under Articles 251, 252, 255 and 317.

² Any person who with the authority of a court produces or amends official documents for the purposes of a covert investigation does not commit an offence under Articles 251, 252, 255 and 317.

²⁷⁵ Amended in accordance with No I of the Federal Act of 17 June 1994, in force since 1 Jan. 1995 (AS **1994** 2290 2307; BBl **1991** II 969).

²⁷⁶ Penalties revised in accordance with No II 1 para. 16 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979).

²⁷⁷ Repealed by No I 1 of the Federal Act of 22 Dec. 1999 (Revision of the Criminal Law on Corruption) (AS **2000** 1121; BBl **1999** 5497).

²⁷⁸ Amended in accordance with No I of the Federal Act of 17 June 1994, in force since 1 Jan. 1995 (AS **1994** 2290 2307; BBl **1991** II 969).

²⁷⁹ Inserted by Art. 24 No 1 of the Federal Act of 20 June 2003 on Covert Investigations, in force since 1 Jan. 2005 (SR **312.8**).

Art. 318

Issuing a false
medical certifi-
cate

1. Any doctor, dentist, veterinary surgeon or midwife who wilfully issues a certificate, the content of which is untrue, for the purpose of being produced to the authorities or to obtain an unlawful advantage, or which may prejudice the substantial and lawful interests of third parties shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

If the offender has requested, accepted or secured the promise of a special form of recompense, he shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

2. If the person concerned acts through negligence, the penalty is a fine.

Art. 319

Assistance by a
public official in
the escape of
prisoners

Any public official who assists or allows a person under arrest, a convicted prisoner or a person committed to an institution by official order to escape shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 320

Breach of
official secrecy

1. Any person who discloses secret information that has been confided to him in his capacity as a member of an authority or as a public official or which has come to his knowledge in the execution of his official duties shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

A breach of official secrecy remains an offence following termination of employment as a member of an authority or as a public official.

2. The offender is not liable to any penalty if he has disclosed the secret information with the written consent of his superior authority.

Art. 321

Breach of
professional
confidentiality

1. Any person who in his capacity as a member of the clergy, lawyer, defence lawyer, notary, patent attorney, auditor subject to a duty of confidentiality under the Code of Obligations²⁸⁰, doctor, dentist, pharmacist, midwife or as an auxiliary to any of the foregoing persons discloses confidential information that has been confided to him in his professional capacity or which has come to his knowledge in the practice of his profession shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.²⁸¹

²⁸⁰ SR 220

²⁸¹ Amended in accordance with Annex No 4 of the Patent Attorney Act of 20 March 2009, in force since 1 July 2011 (AS 2011 2259; BBl 2008 407).

A student who discloses confidential information that has come to his knowledge in the course of his studies is also liable to the foregoing penalties.

A breach of professional confidentiality remains an offence following the termination of professional employment or of the studies.

2. No offence is committed if the person disclosing the information does so with the consent of the person to whom the information pertains or on the basis of written authorisation issued in response to his application by a superior authority or supervisory authority.

3. The federal and cantonal provisions on the duty to testify and on the obligation to provide information to an authority are reserved.

Art. 321^{bis 282}

Breach of professional confidentiality in medical research

¹ Any person who discloses without authorisation a professional secret that has come to his knowledge in the course of his research activities in the fields of medicine or health care shall be liable to a penalty in accordance with Article 321.

² Professional secrets may be disclosed for the purpose of research in the fields of medicine or health care provided a panel of experts so authorises and the person to whom the information relates, having had his rights explained to him, does not expressly prohibit it.

³ The panel shall grant authorisation provided:

- a. the research cannot be carried out with anonymised data;
- b. it would be impossible or unreasonably difficult to obtain the consent of the person to whom the information relates; and
- c. the interests of research outweigh the interest of preserving confidentiality.

⁴ The panel shall make authorisation subject to conditions on compliance with data protection requirements. It shall publish its authorisation decision.

⁵ If the interests of the person to whom the information relates that are worthy of protection are not endangered and if the personal data is made anonymous from the beginning of the research, the panel may grant a general authorisation or may relax procedures by other means.

⁶ The panel shall not be bound by any directives.

⁷ The Federal Council shall appoint the president and the members of the panel and shall issue regulations on its organisation and procedures.

²⁸² Inserted by Annex No 4 of the Federal Act of 19 June 1992 on Data Protection, in force since 1 July 1993 (SR 235.1).

Art. 321^{ter 283}

Breach of postal or telecommunications secrecy

¹ Any person who in his capacity as a public official, employee or auxiliary of an organisation providing postal or telecommunications services reveals to a third party details of customers' post, payments or telecommunications, opens sealed mail or tries to find out its content, or allows a third party the opportunity to carry out such an act shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

² The foregoing penalties shall also apply to any person who by deception causes a person bound by a duty of confidentiality in terms of paragraph 1 to breach his obligation of secrecy.

³ A breach of postal or telecommunications secrecy remains an offence even after termination of employment as a public official, employee or auxiliary of an organisation providing postal or telecommunication services.

⁴ A breach of postal or telecommunications secrecy is not an offence if it is carried out in order to determine the identity of the entitled person or to prevent loss or damage being occasioned.

⁵ Article 179^{octies} is reserved, together with the federal and cantonal provisions on the obligations to give evidence or provide information to a public authority.

Art. 322²⁸⁴

Breach of the media duty to provide information

¹ Media organisations shall be obliged, at the request of any person, to reveal immediately and in writing their place of business and the identity of those responsible for their publications (Art. 28 para. 2 and 3).²⁸⁵

² Newspapers, magazines or periodicals must indicate in an imprint the place of business of their media organisation, significant holdings in other organisations and the editor responsible. If the editor is responsible only for part of the newspaper, magazine or periodical, it must be indicated that he is the editor responsible for that part. Details of the editors responsible must be given for each part of the newspaper, magazine or periodical.

³ In the event of any violation of the provisions of this Article, the manager of the media organisation shall be liable to a fine. If the

²⁸³ Inserted by Annex No 2 of the Telecommunications Act of 30 April 1997, in force since 1 Jan. 1998 (SR **784.10**).

²⁸⁴ Amended in accordance with No I of the Federal Act of 10 Oct. 1997, in force since 1 April 1998 (AS **1998** 852 856; BBl **1996** IV 525).

²⁸⁵ Part of sentence amended in accordance with No II 2 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979).

person indicated as editor (Art. 28 para. 2 and 3) does not in fact hold such a position, this shall also constitute an offence.²⁸⁶

Art. 322^{bis}²⁸⁷

Failure to prevent an illegal publication

Any person who, as the person responsible in terms of Article 28 paragraphs 2 and 3, wilfully fails to prevent the publication of material²⁸⁸, the publication of which constitutes an offence shall be liable to a custodial sentence not exceeding three years or to a monetary penalty. If the person concerned acts through negligence, the penalty is a fine.

Title Nineteen:²⁸⁹ **Bribery**

Art. 322^{ter}

1. Bribery of Swiss public officials.
Bribery

Any person who offers, promises or gives a member of a judicial or other authority, a public official, an officially-appointed expert, translator or interpreter, an arbitrator, or a member of the armed forces an advantage which is not due to him, or offers, promises or gives such an advantage to a third party, in order to cause that public official to carry out or to fail to carry out an act in connection with his official activity which is contrary to his duty or dependent on his discretion,

shall be liable to a custodial sentence not exceeding five years or to a monetary penalty.

Art. 322^{quater}

Acceptance of bribes

Any person who as a member of a judicial or other authority, as a public official, officially-appointed expert, translator or interpreter, or as an arbitrator demands, secures the promise of or accepts an advantage which is not due to him for himself or for a third party in order that he carries out or fails to carry out an act in connection with his official activity which is contrary to his duty or dependent on his discretion,

shall be liable to a custodial sentence not exceeding five years or to a monetary penalty.

²⁸⁶ Part of sentence amended in accordance with No II 2 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979).

²⁸⁷ Inserted by No I of the Federal Act of 10 Oct. 1997, in force since 1 April 1998 (AS **1998** 852 856; BBl **1996** IV 525).

²⁸⁸ Part of sentence amended in accordance with No II 2 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979).

²⁸⁹ Inserted by No I 1 of the Federal Act of 22 Dec. 1999 (Revision of the Criminal Law on Corruption), in force since 1 May 2000 (AS **2000** 1121 1126; BBl **1999** 5497).

Art. 322^{quinquies}

Granting an advantage

Any person who offers, promises or gives a member of a judicial or other authority, a public official, an officially-appointed expert, translator or interpreter, an arbitrator or a member of the armed forces an advantage which is not due to him in order that he carries out his official duties,

shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 322^{sexies}

Acceptance of an advantage

Any person who as a member of a judicial or other authority, as a public official, officially-appointed expert, translator or interpreter, or as an arbitrator, demands, secures the promise of, or accepts an advantage which is not due to him in order that he carries out his official duties,

shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 322^{septies}

2. Bribery of foreign public officials

Any person who offers, promises or gives a member of a judicial or other authority, a public official, an officially-appointed expert, translator or interpreter, an arbitrator, or a member of the armed forces who is acting for a foreign state or international organisation an advantage which is not due to him, or gives such an advantage to a third party, in order that the person carries out or fails to carry out an act in connection with his official activities which is contrary to his duties or dependent on his discretion,

any person who as a member of a judicial or other authority, a public official, an officially-appointed expert, translator or interpreter, an arbitrator, or a member of the armed forces of a foreign state or of an international organisation demands, secures the promise of, or accepts an advantage which is not due to him for himself or for a third party in order that he carries out or fails to carry out an act in connection with his official activity which is contrary to his duty or dependent on his discretion²⁹⁰

shall be liable to a custodial sentence not exceeding five years or to a monetary penalty.

²⁹⁰ Paragraph inserted by Art. 2 No 2 of the Federal Decree of 7 Oct. 2005 on the Approval and Implementation of the Criminal Law Convention and the Additional Protocol of the Council of Europe on Corruption, in force since 1 July 2006 (AS 2006 2371 2374; BBl 2004 6983).

3. General provisions

Art. 322²⁹¹

1. ...²⁹¹
2. Advantages that are permitted under the regulations on the conduct of official duties as well as negligible advantages that are common social practice are not regarded as undue advantages.
3. Private individuals who fulfil official duties are subject to the same provisions as public officials.

Title Twenty:²⁹² **Contraventions of Federal Law**

Art. 323²⁹³

Failure of a debtor to comply with the regulations governing debt collection and bankruptcy proceedings

The following persons shall be liable to a fine:

1. a debtor who is not present or has not appointed a representative to be present at the seizure of or the recording of an inventory of his assets of which he has been given lawful notice (Art. 91 para. 1 no. 1, 163 para. 2 and 345 para. 1²⁹⁴ DCBA²⁹⁵);
2. a debtor who fails to disclose his assets including those not in his possession, or his claims and rights against third parties to the extent required to obtain satisfaction by seizure or to implement an attachment (Art. 91 para. 1 Sec. 2 and 275 DCBA);
3. a debtor who fails to fully disclose his assets including those not in his possession, or his claims and rights against third parties on the recording of an inventory of assets (Art. 163 para. 2, 345 para. 1²⁹⁶ DCBA);
4. a debtor who fails to disclose or make available all his assets to the Bankruptcy Office (Art. 222 para. 1 DCBA);
5. a debtor who does not make himself available to the bankruptcy administrator during the bankruptcy proceedings unless he has special permission to be excused this duty (Art. 229 para. 1 DCBA).

²⁹¹ Repealed by No II 2 of the Federal Act of 13 Dec. 2002, with effect from 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979).

²⁹² Originally Title 19.

²⁹³ Amended in accordance with Annex No 8 of the Federal Act of 16 Dec. 1994, in force since 1 Jan. 1997 (AS **1995** 1227 1307; BBl **1991** III 1).

²⁹⁴ Now Art. 341 para. 1.

²⁹⁵ SR **281.1**

²⁹⁶ Now Art. 341 para. 1.

Art. 324²⁹⁷

Failure of third parties to comply with the regulations governing debt collection, bankruptcy and composition proceedings

The following persons shall be liable to a fine:

1. any adult person who shared a household with a debtor who is deceased or has absconded and who fails to disclose full details of that debtor's assets and to make themselves available to the Bankruptcy Office (Art. 222 para. 2 DCBA²⁹⁸);
2. any debtor of a bankrupt who fails to report to the Bankruptcy Office within the time limit (Art. 232 para. 2 Sec. 3 DCBA);
3. any person who possesses items belonging to a debtor as a pledge or for any other reason and fails to deliver such items to the Bankruptcy Office within the time limit (Art. 232 para. 2 Sec. 4 DCBA);
4. any person who possesses items belonging to a debtor as a pledgee and fails to deliver such items to the liquidators after expiry of the time limit for realisation (Art. 324 para. 2 DCBA);
5. any third party who fails to comply with his duty to provide information and to deliver assets in accordance with Articles 57a paragraph 1, 91 paragraph 4, 163 paragraph 2, 222 paragraph 4 and 345 paragraph 1²⁹⁹ of the DCBA.

Art. 325

Failure to comply with accounting regulations

Any person who wilfully or through negligence fails to comply with the statutory duty to keep proper accounts or to preserve accounts, business correspondence and business telegrams,

any person who wilfully or through negligence fails to comply with the statutory duty to preserve accounts, business correspondence and business telegrams,

shall be liable to a fine.

Art. 325^{bis 300}

Failure to comply with the regulations governing the protection of tenants of domestic and commercial properties

Any person who prevents or attempts to prevent a tenant by the threat of detrimental consequences, and in particular the termination of the lease, from contesting the level of rent or other claims of the landlord,

any person who serves notice of termination on the tenant because the tenant asserts or wishes to assert his rights under Swiss Code of Obligations³⁰¹, or

²⁹⁷ Amended in accordance with Annex No 8 of the Federal Act of 16 Dec. 1994, in force since 1 Jan. 1997 (AS 1995 1227 1307; BBl 1991 III 1).

²⁹⁸ SR 281.1

²⁹⁹ Now Art. 341 para. 1.

³⁰⁰ Inserted by No II Art. 4 of the Federal Act of 15 Dec. 1989 on the Amendment of the CO (Leases and Tenancies), in force since 1 July 1990 (SR 220 at the end, final provisions on Titles VIII and VIII^{bis}).

³⁰¹ SR 220

any person who unlawfully demands or attempts to demand payment of rent or other claims after the failure of an attempt to reach agreement thereon or following a court judgement thereon,
shall on complaint by the tenant be liable to a fine.

Art. 326³⁰²

Application to legal entities, trading companies and sole proprietorships³⁰³

1. ...

Art. 326^{bis 304}

2. In cases falling under Article 325^{bis}

¹ Where the acts constituting offences under Article 325^{bis} are committed while attending to the affairs of a legal entity, general or limited partnership or sole proprietorship³⁰⁵ or otherwise in the provision of commercial or business services to another, the criminal provisions apply to those natural persons who have committed the acts.

² An employer or principal who is aware of the offence or becomes aware of the offence subsequently and who, although he is in a position to do so, fails to prevent the offence or to remedy its consequences shall be liable to the same penalties as the offender.

³ If the employer or principal is a legal entity, general or limited partnership, sole proprietorship³⁰⁶ or corporate body without legal personality, paragraph 2 applies to the culpable management bodies, members of the management bodies, executive company members, de facto managers or liquidators.

Art. 326^{ter 307}

Contravention of the law on business and other names

Any person who uses a name for a legal entity or branch entered in the Commercial Register that does not correspond to the name entered in the Commercial Register and which may be misleading,

any person who uses a misleading name for a legal entity or branch not entered in the Commercial Register, or

³⁰² Repealed by No II 3 of the Federal Act of 13 Dec. 2002, with effect from 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979).

³⁰³ Footnote relevant to German text only.

³⁰⁴ Inserted by No II Art. 4 of the Federal Act of 15 Dec. 1989 on the Amendment of the CO (Leases and Tenancies), in force since 1 July 1990 (SR **220** at the end, final provisions on Titles VIII and VIIIbis).

³⁰⁵ Footnote relevant to German text only.

³⁰⁶ Footnote relevant to German text only.

³⁰⁷ Inserted by No I of the Federal Act of 17 June 1994 (AS **1994** 2290; BBl **1991** II 969). Amended in accordance with Annex No 5 of the Mergers Act of 3 Oct. 2003, in force since 1 July 2004 (SR **221.301**).

any person who gives the impression that a foreign legal entity not entered in the Commercial Register has its registered office or a branch in Switzerland,

shall be liable to a fine³⁰⁸.

Art. 326^{quater} 309

Provision of false information by an employee benefits institution

Any person who as a management officer of an employee benefits institution is under a statutory obligation to provide information to beneficiaries and supervisory bodies but fails to provide any information or provides false information shall be liable to a fine.

Art. 327³¹⁰

Art. 328

Reproduction of postage stamps without intent to commit forgery

1. Any person who reproduces Swiss or foreign postage stamps with the intention of marketing the stamps as reproductions but without making the individual stamps distinguishable as reproductions from genuine stamps, or

any person who imports, offers for sale or markets such reproduction stamps,

shall be liable to a fine.

2. The reproductions shall be forfeited.

Art. 329

Breach of military secrecy

1. Any person who unlawfully

enters buildings or any other places, the access to which is prohibited by the military authorities,

makes drawings, diagrams or plans or takes photographs or makes films of military establishments or objects serving the national defence, or copies or publishes such drawings, diagrams, plans, photographs or films,

shall be liable to a fine.

2. Attempts and complicity are also offences.

³⁰⁸ Corrected by the Drafting Committee of the Federal Assembly (Art. 58 para. 2 ParlA – SR 171.10).

³⁰⁹ Inserted by No I of the Federal Act of 17 June 1994, in force since 1 Jan. 1995 (AS 1994 2290 2307; BBl 1991 II 969).

³¹⁰ Repealed by Annex No 3 of the Federal Act of 22 Dec. 1999 on Currency and Payment Instruments (SR 941.10).

Art. 330

Trading in material requisitioned by the armed forces

Any person who unlawfully sells, purchases, pledges or accepts as a pledge, uses, disposes of, destroys or renders unusable property which has been seized or requisitioned by the military authorities in the interest of national defence shall be liable to a fine.³¹¹

Art. 331

Unauthorised wearing of the military uniform

Any person who wears the uniform of the Swiss armed forces without authority shall be liable to a fine.³¹²

Art. 332³¹³

Failure to report a find

Any person who finds or comes into the possession of property and fails to make a report to the police or the owner as required by Articles 720 paragraph 2, 720a and 725 paragraph 1 of the Civil Code³¹⁴ shall be liable to a fine.

Book Three:³¹⁵ **Introduction and Application of the Code****Title One:
Relationship between this Code and other Federal and Cantonal Acts****Art. 333**

Application of the General Provisions to other federal acts

¹ The general provisions of this Code apply to offences provided for in other federal acts unless these federal acts themselves contain detailed provisions on such offences.

² In the other federal acts, the terms below are replaced as follows:

- a. penal servitude by a custodial sentence of more than one year;
- b. imprisonment by a custodial sentence not exceeding three years or by a monetary penalty;
- c. imprisonment for less than six months by a monetary penalty, whereby a one-month custodial sentence corresponds to a monetary penalty of 30 daily penalty units up to a maximum of 3000 francs.

³¹¹ Penalties revised in accordance with No II 1 para. 16 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979).

³¹² Penalties revised in accordance with No II 1 para. 16 of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979).

³¹³ Amended in accordance with No III of the Federal Act of 4 Oct. 2002 (Basic Article Animals), in force since 1 April 2003 (AS **2003** 463 466; BBl **2002** 4164 5806).

³¹⁴ SR **210**

³¹⁵ Amended in accordance with No III of the Federal Act of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979).

³ An offence that carries a maximum penalty of detention or a fine or of a fine only is a contravention. Articles 106 and 107 apply. Article 8 of the Federal Act of 22 March 1974³¹⁶ on Administrative Criminal Law is reserved. An offence is also a contravention if, in terms of another Federal Act that came into force before 1942, it carries a term of imprisonment not exceeding three months.

⁴ Sentences of lengths differing from those mentioned in paragraph 2 and Article 41 as well as fines of amounts differing from those mentioned in Article 106 are reserved.

⁵ If another federal act provides for a fine to be imposed for a felony or misdemeanour, Article 34 applies. Rules on determining a penalty that differ from Article 34 do not apply. Article 8 of the Federal Act of 22 March 1974 on Administrative Criminal Law remains reserved. If the fine is limited to a sum under 1 080 000 francs, this limit no longer applies. If the fine is limited to a sum exceeding 1 080 000 francs, this limit continues to apply. In this case, the maximum number of daily penalty units equals the current maximum fine divided by 3000.

⁶ Until they have been amended, the following applies in other federal acts:

- a. the limitation periods for the prosecution of felonies and misdemeanours shall be increased by half and the limitation periods for the prosecution of contraventions by twice the ordinary duration;
- b. the limitation periods for the prosecution of contraventions that exceed one year shall be increased by the ordinary duration;
- c. the rules on the interruption and suspension of the limitation period for prosecution are repealed. Article 11 paragraph 3 of the Federal Act of 22 March 1974 on Administrative Criminal Law remains reserved;
- d. prescription of the right to prosecute no longer applies if a judgment is issued by a court of first instance before expiry of the limitation period.
- e. the limitation periods for the execution of penalties for felonies and misdemeanours shall continue to apply, and those for penalties for contraventions shall be increased by one half.
- f. the provisions on the suspension of the limitation period for the execution of a penalty shall continue to apply, and those on interruption shall be repealed.

⁷ The contraventions provided for in other federal acts are offences, even if they have been committed through negligence, unless only

intentional commission is an offence in terms of the provision concerned.

Art. 334

Reference to repealed provisions

If reference is made in federal legislation to provisions being amended or repealed by this Code, the references relate to the provisions of this Code that regulate the matter.

Art. 335

Cantonal acts

¹ The cantons shall retain the power to legislate on contraventions that are not the subject matter of federal legislation.

² The cantons have the power to provide for sanctions for offences against cantonal administrative and procedural law.

Title Two:³¹⁷ ...

Art. 336-338

Title Three:³¹⁸ ...

Art. 339-348

Title Four: Administrative Assistance on Police Matters³¹⁹

Art. 349³²⁰

1. ...

³¹⁷ Repealed by Annex 1 No II 8 of the Criminal Procedure Code of 5 Oct. 2007, with effect from 1 Jan. 2011 (AS **2010** 1881; BBl **2006** 1085).

³¹⁸ Repealed by Annex 1 No II 8 of the Criminal Procedure Code of 5 Oct. 2007, with effect from 1 Jan. 2011 (AS **2010** 1881; BBl **2006** 1085).

³¹⁹ Amended in accordance with Annex 1 No II 8 of the Criminal Procedure Code of 5 Oct. 2007, in force since 1 Jan. 2011 (AS **2010** 1881; BBl **2006** 1085).

³²⁰ Repealed by Annex 1 No 5 of the Federal Act of 13 June 2008 on the Federal Police Information System, with effect from 5 Dec. 2008 (SR **361**).

Art. 350

2. Cooperation
with
INTERPOL.
a. Jurisdiction³²¹

¹ The Federal Office of Police shall carry out the duties of a National Central Bureau in terms of the Constitution and General Regulations of the International Criminal Police Organization (INTERPOL).

² It is responsible for coordinating the exchange of information between the federal and cantonal prosecution services on the one hand and the National Central Bureaus of other states and the General Secretariat of INTERPOL on the other.

Art. 351

b. Tasks³²²

¹ The Federal Office of Police coordinates the exchange of police information for the investigation and prosecution of offences and for the execution of sentences and measures.

² It may transmit police information for the purpose of preventing offences if there are specific indications that there is a serious probability of a felony or misdemeanour being committed.

³ It may coordinate the exchange of information relating to searches for missing persons and for the identification of unknown persons.

⁴ In the interest of preventing and investigating offences, the Federal Office of Police may receive and provide information from and to private individuals if this is in the interests of the persons concerned and their consent has been given or may be assumed in the circumstances.

Art. 352

c. Data protection³²³

¹ The exchange of police information is governed by the principles of the Mutual Assistance Act of 20 March 1981³²⁴ as well as the Constitution and General Regulations of INTERPOL declared to be applicable by the Federal Council.

² The Federal Act of 19 June 1992³²⁵ on Data Protection applies to the exchange of information in connection with searches for missing persons and the identification of unknown persons and for administrative purposes.

³²¹ Amended in accordance with Annex 1 No II 8 of the Criminal Procedure Code of 5 Oct. 2007, in force since 1 Jan. 2011 (AS **2010** 1881; BBl **2006** 1085).

³²² Amended in accordance with Annex 1 No II 8 of the Criminal Procedure Code of 5 Oct. 2007, in force since 1 Jan. 2011 (AS **2010** 1881; BBl **2006** 1085).

³²³ Amended in accordance with Annex 1 No II 8 of the Criminal Procedure Code of 5 Oct. 2007, in force since 1 Jan. 2011 (AS **2010** 1881; BBl **2006** 1085).

³²⁴ SR **351.1**

³²⁵ SR **235.1**

³ The Federal Office may provide information directly to the Central Bureaus of other states provided the recipient state is subject to the INTERPOL data protection regulations.

Art. 353

d. Financial aid and other payments³²⁶

The Confederation may provide financial aid and make payments to INTERPOL.

Art. 354

3. Cooperation in connection with the identification of persons³²⁷

¹ The responsible department shall register and store criminal records data recorded and transmitted to the department by cantonal, federal and foreign authorities in connection with criminal proceedings or in fulfilment of other statutory duties. This data may be used for comparison purposes to identify a wanted or unknown person.

² The following authorities may use and process data in terms of paragraph 1:

- a. the Computer Centre of the Federal Department of Justice and Police;
- b. the Federal Office of Police;
- c. the border posts;
- d. the police authorities in the cantons.

³ Personal data that relates to criminal records data in accordance with paragraph 1 shall be processed in separate information systems; the procedure is subject to the provisions of the Federal Act of 13 June 2008³²⁸ on Federal Police Information Systems, the Asylum Act of 26 June 1998³²⁹ and the Federal Act of 16 December 2005³³⁰ on Foreign Nationals. The DNA Profile Information System is subject to the provisions of the DNA Profiling Act of 20 June 2003^{331, 332}

⁴ The Federal Council:

- a. regulates the details, and in particular responsibility for data processing, the categories of the data to be recorded, the retention period for the data and cooperation with the cantons;

³²⁶ Amended in accordance with Annex 1 No II 8 of the Criminal Procedure Code of 5 Oct. 2007, in force since 1 Jan. 2011 (AS **2010** 1881; BBl **2006** 1085).

³²⁷ Amended in accordance with Annex 1 No II 8 of the Criminal Procedure Code of 5 Oct. 2007, in force since 1 Jan. 2011 (AS **2010** 1881; BBl **2006** 1085).

³²⁸ SR **361**

³²⁹ SR **142.31**

³³⁰ SR **142.20**

³³¹ SR **363**

³³² Amended in accordance with Annex 1 No 5 of the Federal Act of 13 June 2008 on the Federal Police Information System, in force since 5 Dec. 2008 (SR **361**).

- b. designates the authorities that are authorised to enter and retrieve personal data by remote access or to which personal data may be disclosed in individual cases;
- c. regulates the procedural rights of the persons concerned, and in particular the right to inspect their data as well as to correct, archive or destroy such data.

Art. 355³³³

4.

Art. 355a³³⁴

5. Cooperation with Europol
 a. Exchange of data³³⁵

¹ The Federal Office of Police (fedpol) and the Federal Intelligence Service (FIS) may pass on personal data, including sensitive personal data and personality profiles to the European Police Office (Europol).³³⁶

² The passing on of such data is subject in particular to the requirements of Articles 3 and 10–13 of the Agreement of 24 September 2004³³⁷ between the Swiss Confederation and the European Police Office.

³ At the same time as passing on data, the Federal Office of Police shall notify Europol of the purpose for which the data is provided as well as of any restrictions with regard to its processing to which it is itself subject in accordance with federal or cantonal legislation.

Art. 355b³³⁸

b. Extension of mandate³³⁹

The Federal Council is authorised to agree with Europol amendments to the scope of its mandate in accordance with Article 3 paragraph 3 of the Agreement of 24 September 2004³⁴⁰ between the Swiss Confederation and the European Police Office.

³³³ Repealed by Annex 1 No 5 of the Federal Act of 13 June 2008 on the Federal Police Information System, with effect from 5 Dec. 2008 (SR **361**).

³³⁴ Inserted by Art. 2 of the Federal Decree of 7 Oct. 2005 on the Approval and Implementation of the Agreement between Switzerland and Europol, in force since 1 April 2006 (AS **2006** 1017 1018; BBI **2005** 983).

³³⁵ Amended in accordance with Annex 1 No II 8 of the Criminal Procedure Code of 5 Oct. 2007, in force since 1 Jan. 2011 (AS **2010** 1881; BBI **2006** 1085).

³³⁶ Amended in accordance with No I 3 of the Ordinance of 4 Dec. 2009 on the Amendment of Legislation due to the Creation of the Federal Intelligence Service, in force since 1 Jan. 2010 (AS **2009** 6921).

³³⁷ SR **0.360.268.2**

³³⁸ Inserted by Art. 2 of the Federal Decree of 7 Oct. 2005 on the Approval and Implementation of the Agreement between Switzerland and Europol, in force since 1 April 2006 (AS **2006** 1017 1018; BBI **2005** 983).

³³⁹ Amended in accordance with Annex 1 No II 8 of the Criminal Procedure Code of 5 Oct. 2007, in force since 1 Jan. 2011 (AS **2010** 1881; BBI **2006** 1085).

³⁴⁰ SR **0.360.268.2**

Art. 355c³⁴¹

^{5bis} Cooperation under the Schengen Association Agreement. Jurisdiction

The federal and cantonal police authorities shall implement the provisions of the Schengen Association Agreement³⁴² in accordance with domestic law.

Art. 355d³⁴³

Ster. ...

Art. 355e³⁴⁴

⁵quater. SIRENE Office

¹ The Federal Office of Police shall maintain a central office (SIRENE Office³⁴⁵) that is responsible for N-SIS.

² Das SIRENE Office is the contact, coordination and consultation point for the exchange of information in connection with the alerts in the SIS. It shall review the formal admissibility of Swiss and foreign alerts in the SIS.

- ³⁴¹ Inserted by Art. 3 No 4 of the Federal Decree of 17 Dec. 2004 on the Adoption and Implementation of the Bilateral Agreements between Switzerland and the EU on the Association to Schengen and Dublin, in force since 1 June 2008 (SR **362**).
- ³⁴² Agreement of 26 Oct. 2004 between the Swiss Confederation, the European Union and the European Community on the Association of that State with the Implementation, Application and Development of the Schengen Acquis (SR **0.362.31**); Agreement of 28 April 2005 between the Swiss Confederation and the Kingdom of Denmark on the Establishment of Rights and Obligations between these two States with a view to Cooperation on Schengen (SR **0.362.33**); Agreement of 17 Dec. 2004 between the Swiss Confederation, the Republic of Iceland and the Kingdom of Norway on the implementation, application and development of the Schengen Acquis and on the criteria and procedure for determining the State responsible for examining an application for asylum lodged in Switzerland, Iceland or Norway (SR **0.362.32**).
- ³⁴³ Inserted by Art. 3 No 4 of the Federal Decree of 17 Dec. 2004 on the Adoption and Implementation of the Bilateral Agreements between Switzerland and the EU on the Association to Schengen and Dublin (SR **362**). Repealed by Annex 2 No II of the Federal Act of 13 June 2008 on the Federal Police Information System, with effect from 5 Dec. 2008 (SR **361**).
- ³⁴⁴ Inserted by Art. 3 No 4 of the Federal Decree of 17 Dec. 2004 on the Adoption and Implementation of the Bilateral Agreements between Switzerland and the EU on the Association to Schengen and Dublin, in force since 1 June 2008 (SR **362**).
- ³⁴⁵ Supplementary Information REquest at the National Entry.

Art. 355³⁴⁶

1bis. Judicial cooperation under the Schengen-Association Agreements: Disclosure of personal data
 a. To a third country or international body

¹ Personal data that has been transmitted or made available by a state, bound by any of Schengen Association Agreements³⁴⁷ (a Schengen state) may be disclosed to the competent authority of a third state or to an international body if:

- a. disclosure is required in order to prevent, detect or prosecute a criminal offence or to execute a criminal judgment;
- b. the receiving authority is responsible for the prevention, detection or prosecution of criminal offences or the execution of a criminal judgments;
- c. the Schengen state that has transmitted the personal data or made it available has given its prior consent to disclosure; and
- d. the third state or the international body provides adequate safeguards for the data.

² By way of derogation from paragraph 1 letter c, personal data may be disclosed in an individual case if:

- a. the prior consent of the Schengen states cannot be obtained in good time; and
- b. disclosure is essential for the prevention of an immediate and serious threat to the public security of a Schengen states or of a third state or to safeguard the essential interests of a Schengen state.

³⁴⁶ Inserted by No 4 of the Federal Act of 19 March 2010 on the Implementation of Framework Decision 2008/977/JHA on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters, in force since 1 Dec. 2010 (AS **2010** 3387 3418; BBl **2009** 6749).

³⁴⁷ The Schengen Association Agreements comprise:

- a. the Agreement of 26 October 2004 between the Swiss Confederation, the European Union and the European Community on the association of that State with the implementation, application and development of the Schengen Acquis (SR **0.362.31**);
- b. the Agreement of 26 October 2004 in the form of an exchange of letters between the Council of the European Union and the Swiss Confederation on the Committees that assist the European Commission in the exercise of its executive powers (SR **0.362.1**);
- c. the Agreement of 17 December 2004 between the Swiss Confederation, the Republic of Iceland and the Kingdom of Norway on the Implementation, Application and Development of the Schengen Acquis and on the Criteria and Procedure for determining the State responsible for examining an application for asylum lodged in Switzerland, Iceland or Norway (SR **0.362.32**);
- d. the Agreement of 28 April 2005 between the Swiss Confederation and the Kingdom of Denmark on the implementation, application and development of those parts of the Schengen Acquis that are based on the provisions of Title IV of the Treaty establishing the European Community (SR **0.362.33**);
- e. the Protocol of 28 February 2008 between the Swiss Confederation, the European Union, the European Community and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the Swiss Confederation, the European Union and the European Community on the association of the Swiss Confederation with the implementation, application and development of the Schengen Acquis (SR **0.362.311**; not yet in force).

³ The competent authority shall give immediate notice of the disclosure of personal data under paragraph 2 to the Schengen state that has transmitted the personal data or made it available.

⁴ By way of derogation from paragraph 1 letter d, personal data may be disclosed in an individual case if:

- a. this is required to protect prevailing legitimate interests of the person concerned or a third person;
- b. this is required to protect a prevailing public interest; or
- c. adequate guarantees suitable protection are provided.

Art. 355g³⁴⁸

b. To a natural or legal person

¹ Personal data that has been transmitted or made available by a Schengen state may be disclosed to a natural or legal person in an individual case if:

- a. the specific legislation or an international agreement so provides;
- b. the Schengen state that has transmitted the personal data or made it available has given its prior consent to disclosure; and;
- c. no prevailing legitimate interests of the person concerned prevent disclosure; and
- d. disclosure is essential for:
 1. compliance with a statutory duty by the natural or legal person,
 2. the prevention, detection or prosecution of a criminal offence or the execution of a criminal judgment,
 3. the prevention of an immediate and serious threat to public security, or
 4. the prevention of a serious breach of third party rights.

² The competent authority shall disclose the data to the natural or legal person subject to the express condition that it is used exclusively for the purpose specified by the authority.

³⁴⁸ Inserted by No 4 of the Federal Act of 19 March 2010 on the Implementation of Framework Decision 2008/977/JHA on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters, in force since 1 Dec. 2010 (AS 2010 3387 3418; BBl 2009 6749).

Art. 356-361³⁴⁹**Art. 362**

6. Notification in
relation to
pornography³⁵⁰

If an investigating authority establishes that pornographic articles (Art. 197 no. 3) have been produced in or imported from a foreign state, it shall immediately notify the Federal Central Office for Combating Pornography.

Title Five: Notification of Offences against Minors**Art. 363**³⁵¹**Art. 364**

...³⁵²

Where an offence has been committed against a minor, persons bound by official and professional secrecy (Art. 320 and 321) are entitled to report the matter to the guardianship authorities where this is in the interests of the minor.

Title Six: Register of Criminal Convictions**Art. 365**

Purpose

¹ The Federal Office of Justice shall with the support of the other federal authorities and the cantons (Art. 367 para. 1) maintain a computerised register of criminal convictions and applications for extracts from the register of convictions in connection with ongoing criminal proceedings, which shall contain sensitive personal data and personality profiles. The data on convictions and on applications for extracts from the register of convictions in connection with ongoing criminal proceedings shall be processed separately in the computerised register.

² The register shall serve to support the federal and cantonal authorities in the fulfilment of the following tasks:

- a. the conduct of criminal proceedings;
- b. international mutual assistance and extradition proceedings;

³⁴⁹ Repealed by Annex 1 No II 8 of the Criminal Procedure Code of 5 Oct. 2007, with effect from 1 Jan. 2011 (AS **2010** 1881; BBl **2006** 1085).

³⁵⁰ Amended in accordance with Annex 1 No II 8 of the Criminal Procedure Code of 5 Oct. 2007, in force since 1 Jan. 2011 (AS **2010** 1881; BBl **2006** 1085).

³⁵¹ Repealed by Annex 1 No II 8 of the Criminal Procedure Code of 5 Oct. 2007, with effect from 1 Jan. 2011 (AS **2010** 1881; BBl **2006** 1085).

³⁵² Repealed by Annex 1 No II 8 of the Criminal Procedure Code of 5 Oct. 2007, with effect from 1 Jan. 2011 (AS **2010** 1881; BBl **2006** 1085).

- c. the execution of sentences and measures;
- d. civilian and military security checks;
- e. the imposition and revocation of measures banning entry on foreign nationals under the Federal Act of 26 March 1931³⁵³ on the Residence and Permanent Settlement of Foreign Nationals as well as the other forms of expulsion;
- f. the assessment of eligibility for asylum under the Asylum Act of 26 June 1998³⁵⁴;
- g. naturalisation procedures;
- h. the grant and revocation of full and provisional driving licences under the Road Traffic Act from 19 December 1958³⁵⁵;
- i. conduct of consular protection measures;
- j. statistical processing under the Federal Statistics Act of 9 October 1992³⁵⁶;
- k. the imposition or revocation of guardianship measures or measures involving the deprivation of liberty for the purpose of providing care;
- l.³⁵⁷ the exclusion from the performance of alternative civilian service under the Civilian Service Act of 6 October 1995³⁵⁸;
- m.³⁵⁹ the assessment of suitability for certain forms of work under the Civilian Service Act of 6 October 1995;
- n.³⁶⁰ the assessment of eligibility for recruitment, exclusion from the armed forces, or readmission to the armed forces or demotion under the Armed Forces Act of 3 February 1995³⁶¹ (ArmA);
- o.³⁶² the assessment of suitability for promotion or appointment under the ArmA;
- p.³⁶³ the assessment of grounds for refusing to issue a personal weapon under the ArmA;

³⁵³ SR **142.20**

³⁵⁴ SR **142.31**

³⁵⁵ SR **741.01**

³⁵⁶ SR **431.01**

³⁵⁷ Inserted by No II 1 of the Federal Act of 3 Oct. 2008, in force since 1 April 2009 (AS **2009** 1093 1100; BBl **2008** 2707).

³⁵⁸ SR **824.0**

³⁵⁹ Inserted by No II 1 of the Federal Act of 3 Oct. 2008, in force since 1 April 2009 (AS **2009** 1093 1100; BBl **2008** 2707).

³⁶⁰ Inserted by Annex No 1 of the Federal Act of 3 Oct. 2008 on Military Information Systems, in force since 1 Jan. 2010 (SR **510.91**).

³⁶¹ SR **510.10**

³⁶² Inserted by Annex No 1 of the Federal Act of 3 Oct. 2008 on Military Information Systems, in force since 1 Jan. 2010 (SR **510.91**).

q.³⁶⁴ the assessment of exclusion from service under the Civil Protection and Civil Defence Act of 4 October 2002³⁶⁵.

Art. 366

Content

¹ The register shall list persons who have been convicted on the territory of the Confederation, together with Swiss nationals who have been convicted abroad.

² The register shall also include:

- a. convictions for felonies and misdemeanours in cases where a sentence or measure has been imposed;
- b. convictions for contraventions specified by ordinance of the Federal Council of this Code or any other Federal Act;
- c. notifications received from abroad of convictions there that must be recorded in accordance with this Code;
- d. information on the circumstances leading to the amendment of existing entries.

³ Convictions of juveniles shall be included only if the following sentences were imposed:

- a. a custody order (Art. 25 JCLA³⁶⁶); or
- b. accommodation in a secure institution (Art. 15 para. 2 JCLA).³⁶⁷

⁴ The register shall also list persons in respect of whom proceedings for felonies and misdemeanours are pending in Switzerland.³⁶⁸

Art. 367

Processing of
and access to
data

¹ The following authorities process personal data on convictions in the register (Art. 366 para. 2):

- a. the Federal Office of Justice;
- b. the authorities responsible for the administration of civilian criminal justice;
- c. the authorities responsible for the administration of military criminal justice;

³⁶³ Inserted by Annex No 1 of the Federal Act of 3 Oct. 2008 on Military Information Systems, in force since 1 Jan. 2010 (SR **510.91**).

³⁶⁴ Inserted by Annex No 1 of the Federal Act of 3 Oct. 2008 on Military Information Systems, in force since 1 Jan. 2010 (SR **510.91**).

³⁶⁵ SR **520.1**

³⁶⁶ SR **311.1**

³⁶⁷ Inserted by Art. 44 No 1 of the Juvenile Criminal Law Act of 20 June 2003, in force since 1 Jan. 2007 (SR **311.1**).

³⁶⁸ Originally para. 3.

- d. the authorities responsible for the execution of sentences and measures;
- e. the cantonal coordination offices.

² The following authorities may have online access to the personal data on convictions (Art. 366 para. 2):

- a. the authorities listed in paragraph 1;
- b. the Office of the Attorney General of Switzerland;
- c. the Federal Office of Police in the course of criminal investigations;
- d. the Armed Forces Joint Staff³⁶⁹;
- e.³⁷⁰ the Federal Office for Migration;
- f. ...³⁷¹
- g. the cantonal immigration authorities;
- h. the cantonal authorities responsible for road traffic matters;
- i. the federal authorities responsible for the conduct of personal security checks in terms of Article 2 paragraph 4 letter c of the Federal Act of 21 March 1997³⁷² on Measures to Safeguard Internal Security;
- j.³⁷³ the Central Office for Civilian Service.
- k.³⁷⁴ the cantonal authorities responsible for decisions on ineligibility for civil protection service.

^{2bis} The federal office responsible for the register shall notify the Armed Forces Joint Staff immediately for the purposes mentioned in Article 365 paragraph 2 letters n–p of all:

- a. convictions for felonies or misdemeanours;
- b. custodial measures;
- c. decisions on breaches of probation by persons subject to recruitment and members of the armed forces.³⁷⁵

³⁶⁹ The name of this administrative unit was amended in accordance with Art. 16 para. 3 of the Publications Ordinance of 17 Nov. 2004 (SR **170.512.1**).

³⁷⁰ Amended in accordance with No I 3 of the Ordinance of 3 Nov. 2004 on the Amendment of Statutory Provisions due to the Merger of the Federal Offices IMES and FOR, in force since 1 Jan. 2005 (AS **2004** 4655).

³⁷¹ Repealed by No I 3 of the Ordinance of 3 Nov. 2004 on the Amendment of Statutory Provisions due to the Merger of the Federal Offices IMES and FOR, with effect from 1 Jan. 2005 (AS **2004** 4655).

³⁷² SR **120**

³⁷³ Inserted by No II of the Federal Act of 21 March 2003, in force since 1 Jan. 2004 (AS **2003** 4843 4854; BBl **2001** 6127).

³⁷⁴ Inserted by Annex No 1 of the Federal Act of 3 Oct 2008 on Military Information Systems, in force since 1 Jan. 2010 (SR **510.91**).

^{2ter} Notices shall be given of the personal details of Swiss nationals over the age of 17 who are registered in accordance with paragraph 2^{bis}. If the Armed Forces Joint Staff identifies a reported person as being subject to recruitment or as a member of the armed forces, the office responsible for the register shall also provide the data on the conviction.³⁷⁶

^{2quater} The notice and the identification in accordance with paragraph 2^{ter} may be effected via an electronic interface between PISA and the register.³⁷⁷

³ The Federal Council may, if the number of requests for information so justifies, after consulting the Federal Data Protection and Information Commissioner³⁷⁸ and until formal legislation on the relevant legal principles comes into force, extend the rights of inspection under paragraph 2 to additional federal and cantonal law enforcement and administrative authorities.

⁴ Personal data from registered requests for an extract from the register of convictions in relation to pending criminal proceedings may only be processed by the authorities listed in paragraph 2 letters a–e.

^{4bis} In order to fulfil its task in terms of Article 365 paragraph 2 letter m, the authority mentioned in paragraph 2 letter j may, with the consent of the person concerned, make a written request to inspect personal data relating to pending criminal proceedings.³⁷⁹

⁵ Each canton shall establish a coordination office for the processing of the data in the register.

⁶ The Federal Council shall regulate the details, and in particular:

- a. responsibility for data processing;
- b. the categories of data to be recorded and their retention periods;
- c. cooperation with the authorities concerned;
- d. the duties of the coordination offices;
- e. the right to information and the other procedural rights for the protection of the persons concerned;
- f. data security;

³⁷⁵ Inserted by Annex No 1 of the Federal Act of 3 Oct 2008 on Military Information Systems, in force since 1 Jan. 2010 (SR **510.91**).

³⁷⁶ Inserted by Annex No 1 of the Federal Act of 3 Oct 2008 on Military Information Systems, in force since 1 Jan. 2010 (SR **510.91**).

³⁷⁷ Inserted by Annex No 1 of the Federal Act of 3 Oct 2008 on Military Information Systems, in force since 1 Jan. 2010 (SR **510.91**).

³⁷⁸ The name of this administrative unit was amended in accordance with Art. 16 para. 3 of the Publications Ordinance of 17 Nov. 2004 (SR **170.512.1**).

³⁷⁹ Inserted by No II 1 of the Federal Act of 3 Oct 2008, in force since 1 April 2009 (AS **2009** 1093 1100; BBl **2008** 2707).

- g. the authorities that may report personal data in written form, enter data in the register, consult the register or to which personal data may be disclosed in individual cases;
- h. the passing on of electronic data to the Swiss Federal Statistical Office.

Art. 368

Notice of information subject to registration

The competent federal authority may give notice of entries in the register to the offender's country of origin.

Art. 369

Removal of entries

¹ Convictions that involve a custodial sentence shall be removed ex officio if the following periods have elapsed over and above the period of the sentence imposed by the court:

- a. 20 years in the case of a custodial sentence of at least five years;
- b. 15 years in the case of a custodial sentence of at least one but less than five years;
- c. ten years in the case of custodial sentences of less than a year;
- d.³⁸⁰ ten years in the case of deprivation of liberty in accordance with Article 25 JCLA³⁸¹.

² In the event that a custodial sentence has already been entered in the register, the periods in accordance with paragraph 1 shall be extended by the duration of that sentence.

³ Convictions involving a suspended custodial sentence, a monetary penalty, community service or a fine as the main penalty shall be removed ex officio after ten years.

⁴ Convictions that involve an in-patient measure in addition to a sentence or an in-patient measure alone shall be removed ex officio after:

- a. 15 years in the case of measures under Articles 59–61 and 64;
- b. ten years in the case of secure accommodation in accordance with Article 15 paragraph 2 of the JCLA.³⁸²

^{4bis} Convictions that solely involve out-patient treatment in accordance with Article 63 shall be removed ex officio after ten years.³⁸³

³⁸⁰ Inserted by Art. 44 No 1 of the Juvenile Criminal Law Act of 20 June 2003, in force since 1 Jan. 2007 (SR 311.1).

³⁸¹ SR 311.1

³⁸² Amended in accordance with No I of the Federal Act of 24 March 2006 (Revision of the Law on Sanctions and the Register of Convictions), in force since 1 Jan. 2007 (AS 2006 3539 3544; BBl 2005 4689).

^{4ter} Convictions that solely involve a measure under Articles 66–67*b* or under Articles 48, 50 and 50*a* of the Military Criminal Code³⁸⁴ in its version of 21 March 2003³⁸⁵ shall be removed *ex officio* after ten years.³⁸⁶

⁵ The periods in accordance with paragraph 4 shall be extended by the duration of the remainder of the sentence.

⁶ The period begins to run:

- a. in the case of convictions under paragraphs 1, 3 and ^{4ter}: on the day on which the conviction becomes legally enforceable;
- b. in the case of convictions under paragraphs 4 and ^{4bis}: on the day on which the measure is revoked or the person concerned receives his final discharge from the measure.³⁸⁷

⁷ After removal, the entry may no longer be reconstructed. The removed conviction may no longer be cited against the person concerned.

⁸ Data from the register of convictions must not be archived.

Art. 370

Right to inspect ¹ Any person has the right to inspect the entire entry relating to him.

² No copy may be issued.

Art. 371

Extract from the register of convictions for private individuals

¹ Any person may request the Swiss Central Register of Convictions to issue a written extract from the register of criminal convictions relating to him. The extract shall list convictions for felonies and misdemeanours; convictions for contraventions shall appear in the extract only if a prohibition from practising a profession in accordance with Article 67 was imposed.³⁸⁸

² Juvenile convictions appear in the extract from the register of convictions only if the person concerned was convicted as an adult of addi-

³⁸³ Inserted by No I of the Federal Act of 24 March 2006 (Revision of the Law on Sanctions and the Register of Convictions), in force since 1 Jan. 2007 (AS 2006 3539 3544; BBl 2005 4689).

³⁸⁴ SR 321.0

³⁸⁵ AS 2006 3389

³⁸⁶ Inserted by No I of the Federal Act of 24 March 2006 (Revision of the Law on Sanctions and the Register of Convictions), in force since 1 Jan. 2007 (AS 2006 3539 3544; BBl 2005 4689).

³⁸⁷ Amended in accordance with No I of the Federal Act of 24 March 2006 (Revision of the Law on Sanctions and the Register of Convictions), in force since 1 Jan. 2007 (AS 2006 3539 3544; BBl 2005 4689).

³⁸⁸ Amended in accordance with No I of the Federal Act of 24 March 2006 (Revision of the Law on Sanctions and the Register of Convictions), in force since 1 Jan. 2007 (AS 2006 3539 3544; BBl 2005 4689).

tional offences that must be included in the extract from the register of convictions.

³ A conviction containing a sentence shall no longer be included in the extract from the register of convictions if two thirds of the period required for removal in accordance with Article 369 has elapsed.

^{3bis} A conviction containing a suspended or partially suspended sentence shall no longer be included in the extract from the register of convictions if the offender was of good behaviour until the expiry of the probationary period.³⁸⁹

⁴ A conviction containing a measure in addition to a sentence or a measure alone shall no longer be included in the extract from the register of convictions if half of the period required for removal in accordance with Article 369 has elapsed.

⁵ On expiry of the period in accordance with paragraphs 3 and 4, the conviction shall remain in the extract from the register of convictions, if it contains a conviction in respect of which the period has not yet expired.

Title Seven: Execution of Sentences and Measures, Probation Assistance, Institutions and Facilities

Art. 372

1. Duty to execute sentences and measures

¹ The cantons shall execute the judgments issued by their criminal courts on the basis of this Code. They are obliged to execute the judgments of the federal criminal justice authorities in return for the reimbursement of their costs.

² Decisions in criminal cases made by police authorities and other competent authorities and the decisions of prosecution services are deemed equivalent to court judgments.

³ The cantons shall guarantee the uniform execution of criminal sanctions.³⁹⁰

³⁸⁹ Inserted by No I of the Federal Act of 24 March 2006 (Revision of the Law on Sanctions and the Register of Convictions), in force since 1 Jan. 2007 (AS **2006** 3539 3544; BBl **2005** 4689).

³⁹⁰ Inserted by No II 2 of the Federal Act of 6 Oct. 2006 on the New System of Financial Equalisation and the Division of Tasks between the Confederation and the Cantons (NFA), in force since 1 Jan. 2008 (AS **2007** 5779 5817; BBl **2005** 6029).

Art. 373

2. Monetary penalties, fines, costs and forfeitures.
Execution

Legally binding decisions issued on the basis of federal or cantonal criminal law relating to monetary penalties, fines, costs and the forfeiture of property or assets may be executed anywhere in Switzerland.

Art. 374

Right of disposal

¹ The cantons are entitled to the monetary penalties and fines imposed and the property and assets forfeited in accordance with this Code.

² The Confederation is entitled to the proceeds of the cases judged by the Criminal Chamber of the Federal Criminal Court.

³ The use of proceeds for the benefit of persons harmed in accordance with Article 73 is reserved.

⁴ The provisions of the Federal Act of 19 March 2004³⁹¹ on the Division of Forfeited Assets are reserved.³⁹²

Art. 375

3. Community service

¹ The cantons are responsible for the execution of community service orders.

² The competent authority shall decide on the nature and form of community service to be performed.

³ The statutory maximum number of working hours may be exceeded in the performance of community service. The regulations on health and safety in the workplace remain applicable.

Art. 376

4. Probation assistance

¹ The cantons shall organise the system of probation assistance. They may delegate this duty to private organisations.

² Probation assistance is normally the responsibility of the canton in which the probationer is resident.

Art. 377

5. Institutions and facilities.
Duty of the cantons to establish and operate

¹ The cantons shall establish and operate institutions and institution units for prison inmates in open and secure custody as well as for prison inmates in semi-detention and in the day release employment.

² They may also provide units for special inmate groups, and in particular for:

- a. women;

³⁹¹ SR 312.4

³⁹² Inserted by Annex No 1 of the Federal Act of 19 March 2004 on the Division of Forfeited Assets, in force since 1 Aug. 2004 (SR 312.4).

- b. prison inmates of specific age groups;
- c. prison inmates serving very long or very short sentences;
- d. prison inmates that require constant care or treatment or are receiving basic or advanced training.

³ They shall establish and operate the institutions provided for in this Code for the execution of measures.

⁴ They shall ensure that the regulations and the operation of the institutions and facilities comply with this Code.

⁵ They shall facilitate the basic and advanced training of the staff.

Art. 378

Cooperation
between the
cantons

¹ The cantons may enter into agreements on the joint establishment and operation of institutions and facilities or secure themselves a right of joint use of the institutions and facilities belonging to other cantons.

² The cantons shall inform each other of the special features of their institutions and facilities, and in particular of the range of care, treatment and employment services; they shall cooperate in the allocation of prison inmates to institutions and facilities.

Art. 379

Licensing of
private institu-
tions

¹ The cantons may grant licences to privately run institutions and facilities authorising them to execute sentences in the form of semi-detention and of day release employment together with measures under Articles 59–61 and 63.

² Privately run institutions and facilities shall be subject to the supervision of the cantons.

Art. 380

Allocation of
costs

¹ The costs of the execution of sentences and measures shall be borne by the cantons.

² The offender shall contribute in an appropriate manner to the costs:

- a. by performing work while serving a sentence or undergoing a measure;
- b. in accordance with his income or assets if he refuses to perform work assigned to him even though the work satisfies the requirements of Articles 81 or 90 paragraph 3; or
- c. by deduction of part of the income due to him as payment for an activity while in semi-detention, on day release employment or in external accommodation combined with day release employment.

³ The cantons shall issue detailed regulations on offenders' contributions to costs.

Title Seven a:³⁹³ Liability in Cases of Discharge from Indefinite Incarceration

Art. 380a

¹ If a person subject to indefinite incarceration is released on parole or discharged from incarceration and commits a felony mentioned in Article 64 paragraph 1^{bis}, the responsible body politic shall be liable for the resultant injury and loss.

² In relation to rights of recourse against the offender and the time limits for filing claims for damages or satisfaction, the provisions of the Code of Obligations³⁹⁴ on unlawful acts apply.

³ In relation to rights of recourse against the members of the authority issuing the order, cantonal law or the Government Liability Act of 14 March 1958³⁹⁵ applies.

Title Eight: Pardons, Amnesties, Re-opening of Cases

Art. 381

1. Pardons.
Jurisdiction

The right to grant a pardon in relation to convictions based on this Code or any other federal act shall be exercised:

- a. by the Federal Assembly in cases in which the Criminal Chamber of the Federal Criminal Court or an administrative authority of the Confederation has passed judgment;
- b. by the pardons authority of the Canton in cases in which a cantonal authority has passed judgment.

Art. 382

Pardon petition

¹ The petition for a pardon may be filed by the offender, his legal representative or, with consent of the offender, by his defence agent, spouse or registered partner.³⁹⁶

³⁹³ Inserted by No I of the Federal Act of 21 Dec. 2007 (Indefinite Incarceration of Extremely Dangerous Offenders), in force since 1 Aug. 2008 (AS **2008** 2961 2964; BBl **2006** 889).

³⁹⁴ SR **220**

³⁹⁵ SR **170.32**

³⁹⁶ Amended in accordance with Annex No 18 of the Same-Sex Partnership Act of 18 June 2004, in force since 1 Jan. 2007 (SR **211.231**).

² In the case of political felonies and misdemeanours and in the case of offences connected with political felonies or misdemeanours, the Federal Council or the cantonal government shall also be entitled to initiate the pardon procedure.

³ The pardons authority may stipulate that the petition for a pardon that has been refused may not be filed again before the expiry of a certain period.

Art. 383

Effects

¹ A pardon may wholly or partly remit all sentences imposed by legally binding judgment or commute the sentences to less severe forms of sentence.

² The pardon decree shall specify the extent of the pardon.

Art. 384

2. Amnesties

¹ The Federal Assembly may grant an amnesty in criminal matters governed by this Code or any other federal act.

² An amnesty excludes the prosecution of specific offences or categories of offender and grants the remission of related sentences.

Art. 385

3. Re-opening of cases

In the case of convictions based on this Code or any other federal act, where important information or evidence comes to light that was not available to the court at the time of the earlier proceedings, the cantons must allow the re-opening of the case for the benefit of the convicted person.

Title Nine: Preventive Measures, Supplementary Provisions and General Transitional Provisions

Art. 386³⁹⁷

1. Preventive measures

¹ The Confederation may employ investigative, educational and further measures aimed at preventing specific offences and crime in general.

² It may support projects that have the aim mentioned in paragraph 1.

³ It may participate in organisations that carry out measures mentioned in paragraph 1 or establish and support such organisations.

³⁹⁷ In force since 1 Jan. 2006 in accordance with the Ordinance of 2 Dec. 2005 (AS 2005 5723)

⁴ The Federal Council shall regulate the nature, aims and form of the preventive measures.

Art. 387

2. Supplementary provisions of the Federal Council

¹ The Federal Council shall have the power after consulting the cantons to enact provisions on:

- a. the execution of cumulative sentences, supplementary sentences and cases where two or more individual sentences are executed simultaneously;
- b. the assignment of the responsibility for executing sentences and measures to another canton;
- c. the execution of sentences and measures imposed on persons suffering from illness or invalidity, or elderly persons;
- d. the execution of sentences and measures in cases under Article 80 involving women;
- e. the wages paid to prison inmates in accordance with Article 83.

^{1bis} The Federal Council shall enact the required provisions on the establishment of the Federal Commission for the Assessment of the Treatability of Offenders subject to Indefinite Incarceration (Art. 64c para. 1) relating to the appointment of members of the Commission and their remuneration, procedures and the organisation of the Commission.³⁹⁸

² The Federal Council may at the request of the responsible cantonal authority issue special provisions on the separation of the institutions of the Canton of the Ticino.

³ The Federal Council may provide that data removed from the register of criminal convictions be preserved for research purposes; if such data is preserved, the privacy of the persons concerned must be protected and the principles of data protection must be complied with.

⁴ The Federal Council may by way of a trial and for limited time:

- a. introduce or permit new penalties and measures as well as new forms of execution and modify the scope of application of existing sanctions and forms of execution;
- b. introduce or permit the delegation of the execution of custodial sentences to privately run institutions that satisfy the requirements of this Code relating to the implementation of sentences (Art. 74–85, 91 and 92). These institutions shall be subject to the supervision of the cantons.

³⁹⁸ Inserted by No I of the Federal Act of 21 Dec. 2007 (Indefinite Incarceration of Extremely Dangerous Offenders), in force since 1 Aug. 2008 (AS 2008 2961 2964; BBl 2006 889).

⁵ The cantonal implementing provisions for the trial of new sanctions and forms of execution and the execution of sentences by privately run institutions (para. 4) require the approval of the Confederation in order to be valid.

Art. 388

3. General transitional provisions.
Execution of earlier judgments

¹ Judgments issued in application of the previous law shall be executed in accordance with the previous law. The exceptions in paragraphs 2 and 3 are reserved.

² Where an act that does not carry a penalty under the new law has led to conviction under the previous law, the sentence or measure imposed shall no longer be executed.

³ The provisions of the new law on the regime for the execution of sentences and measures and on the rights and obligations of prison inmates also apply to offenders who have been convicted in accordance with the previous law.

Art. 389

Limitation

¹ Unless the law provides otherwise, the provisions of the new law on time limits for prosecution and the execution of sentences and measures, if they are less strict, shall also apply to offenders who have committed offences or been convicted before the this Code comes into force.

² The periods of time that have elapsed before the new law comes into force shall be taken into account.

Art. 390

Offences prosecuted on complaint

¹ In the case of offences that are only prosecuted on complaint, the period for filing a complaint shall be calculated in accordance with the law that applied at the time of the offence.

² If the new law requires a complaint to be filed in respect of an offence that was prosecuted ex officio under the previous law, the period for filing the complaint shall begin when the new law comes into force. If the prosecution has already been initiated, it may only be continued if a complaint is filed.

³ If the new law stipulates the ex officio prosecution of an offence that was only prosecuted on complaint under the previous law, an offence committed before the new law comes into force shall only be prosecuted if a complaint is filed.

Art. 391

4. Cantonal
transitional
provisions

The cantons shall notify the Confederation of the required transitional provisions to the Swiss Criminal Code.

Art. 392

5. Commence-
ment of this
Code

This Code shall come into force on 1 January 1942.

Final Provisions of the Amendment of 18 March 1971³⁹⁹**Final Provisions of the Amendment of 13 December 2002⁴⁰⁰***1. Execution of sentences*

¹ Article 46 applies to the revocation of the suspended execution of a sentence ordered under the previous law. The court may impose a monetary penalty (Art. 34–36) or community service (Art. 37–39) instead of a custodial sentence.

² The secondary penalties imposed under the previous law of disqualification from holding public office (prev. Art.. 51⁴⁰¹), revocation of parental authority and placing under guardianship (prev. Art.. 53⁴⁰²), expulsion due to conviction for an offence (prev. Art.. 55⁴⁰³), prohibition from entering premises licensed to sell alcohol (prev. Art.. 56⁴⁰⁴) shall be repealed when the new law comes into force.

³ The provisions of the new law on the execution of custodial sentences (Art. 74–85, 91 and 92) and on probation assistance, conduct orders and the voluntary social supervision (Art. 93–96) also apply to offenders who were convicted under the previous law.

2.⁴⁰⁵ Imposition and execution of measures

¹ The provisions of the new law on measures (Art. 56–65) and on the execution of measures (Art. 90) also apply to offenders who committed an offence or were convicted before the new law comes into force. However the following also applies:

- a. The retrospective ordering of indefinite incarceration in accordance with Article 65 paragraph 2 is permitted only if indefinite incarceration would

³⁹⁹ Federal Act of 18 March 1971, in force since 1 July 1971 (AS **1971** 777 807; BBl **1965** I 561) and for Art. 49 No 4 para. 2, 82–99, 370, 372, 373, 379 No 1 para. 2, 385 and 391 in force since 1 Jan. 1974 (AS **1973** 1840). Repealed by No IV of the Federal Act of 13 Dec. 2002, with effect from 1 Jan. 2007 (AS **2006** 3459 3535; BBl **1999** 1979).

⁴⁰⁰ AS **2006** 3459 3535; BBl **1999** 1979

⁴⁰¹ AS **1971** 777

⁴⁰² BS **3** 203

⁴⁰³ AS **1951** 1

⁴⁰⁴ BS **3** 203

⁴⁰⁵ Amended in accordance with No I of the Federal Act of 24 March 2006 (Revision of the Law on Sanctions and the Register of Convictions), in force since 1 Jan. 2007 (AS **2006** 3539 3544; BBl **2005** 4689).

have been possible on the basis of Article 42 or 43 section 1 paragraph 2 of the previous law.

- b. The detention of young adults in a vocational training institution (Art. 100^{bis} in its version of 18 March 1971⁴⁰⁶) and any measure for young adults (Art. 61) may not be for a period in excess of four years.

² Until twelve months at the latest after the new law comes into force, the court shall assess whether persons indefinitely incarcerated under Articles 42 or 43 number 1 paragraph 2 of the previous law fulfil the requirements for imposing a therapeutic measure (Art. 59–61 or 63). If they do, the court shall impose the relevant; if not, indefinite incarceration shall be continued in accordance with the new law.

3. Register of criminal convictions

¹ The provisions of the new law on the register of criminal convictions (Art. 365–371) also apply to convictions under the previous law.

² By six months at the latest after the new law comes into force, the competent authority shall ex officio remove entries relating to:

- a. educative measures (Art. 91 in its version of 18 March 1971⁴⁰⁷), with the exception of those ordered on the basis of Article 91 number 2 in its version of 18 March 1971;
- b. special treatment (Art. 92 in its version of 18 March 1971);
- c. the obligation to perform work (Art. 95 in its version of 18 March 1971).⁴⁰⁸

³ Entries deleted under the previous law shall no longer be included in the extract from the register of convictions for private individuals.⁴⁰⁹

4. Institutions for the execution of measures

The cantons shall establish institutions for the implementation of measures under Articles 59 paragraph 3 and 64 paragraph 3 within ten years at the latest of these amendments coming into force.

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⁴⁰⁶ AS 1971 777

⁴⁰⁷ AS 1971 777

⁴⁰⁸ Amended in accordance with No I of the Federal Act of 24 March 2006 (Revision of the Law on Sanctions and the Register of Convictions), in force since 1 Jan. 2007 (AS 2006 3539 3544; BBl 2005 4689).

⁴⁰⁹ Inserted by No I of the Federal Act of 24 March 2006 (Revision of the Law on Sanctions and the Register of Convictions), in force since 1 Jan. 2007 (AS 2006 3539 3544; BBl 2005 4689).

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Final Provisions of the Amendment of 18 March 1971

Final Provisions of the Amendment of 13 December 2002

