

ARRANGEMENT OF SECTIONS

Section

1. Title.
2. Object.
3. Interpretation.
4. Application.
5. Binding nature of the guidelines on judicial officers.
6. Objectives of sentencing.
7. Nature of punishment.
8. General provisions on aggravating circumstances.
9. General provisions on mitigating circumstances.
10. Table of presumptive penalties.
11. Offences with prescribed minimum penalties.
12. Pre-sentencing hearing.
13. Sentencing judgment.
14. Imprisonment.
15. Imprisonment in default of payment of a fine.
16. Periodical imprisonment.
17. Fine.
18. Community service.
19. Concurrent and cumulative sentences.
20. Postponement or suspension of sentence.
21. Special categories of offenders.

FIRST SCHEDULE: Sentencing procedure.

SECOND SCHEDULE: Structure of Sentencing Judgment.

THIRD SCHEDULE: Table of Presumptive Penalties.

PREAMBLE

WHEREAS section 334A of the Criminal Procedure and Evidence Act [*Chapter 9:07*], empowers the Judicial Service Commission, from time to time, to convene a judicial conference for purposes of formulating sentencing guidelines and in particular, provide for—

- (a) inquiries and investigations to be conducted by courts prior to sentencing offenders;
- (b) the factors to be considered by courts when sentencing offenders;
- (c) forms of punishment that may be imposed as alternatives to custodial sentences;
- (d) principles and criteria which will assist in promoting consistency in sentencing and the equitable administration of criminal justice in Zimbabwe;

AND WHEREAS section 334A(1) of the Criminal Procedure and Evidence Act further provides that the sentencing guidelines shall be in the form of a table of presumptive penalties supplemented by additional guidelines addressing such of the factors as the judicial conference considers relevant:

NOW, THEREFORE, it is hereby notified that the Minister of Justice, Legal and Parliamentary Affairs, has in terms of section 389 as read with section 334A (9) of the Criminal Procedure and Evidence Act, approved the following Sentencing Guidelines Regulations—

Title

1. These regulations shall be cited as the Criminal Procedure and Evidence (Sentencing Guidelines) Regulations, 2023 (“these guidelines”).

Object

2. The object of these guidelines is to foster public confidence in the criminal justice system by promoting consistency and transformative justice in sentencing and eliminating unwarranted disparities in the punishment of offenders.

Interpretation

3. In these guidelines—

“Act” means the Criminal Procedure and Evidence Act [Chapter 9:07];

“aggravating circumstances” means those factors or circumstances expressly listed as such by provisions of the Criminal Law Code or any other enactment, including the factors and circumstances listed in section 8 of these guidelines, and without limitation on any other factors or circumstances which a court may take into account as warranting an augmented sentence;

“child” means any person under the age of eighteen years;

“crime” means any conduct punishable by the Criminal Law Code or as a criminal offence by any other law;

“court” or “the court”, in relation to any matter dealt with under these guidelines, means the Supreme Court, the High Court, the magistrates court or any other court specified in a particular statute;

“Criminal Law Code” means the Criminal Law (Codification and Reform) Act [Chapter 9:23];

“domestic violence” means violence as defined in section 3 of the Domestic Violence Act [Chapter 5:16];

“elderly offender” for the purposes of these guidelines, means a person aged seventy years and above;

“judicial officer” means any judge or magistrate, whether appointed in a substantive or acting capacity;

“mitigating circumstances” means those factors or circumstances, including the factors and circumstances listed in section 9 of these guidelines and found by the court as lessening the moral blameworthiness of the offender as warranting a diminished penalty;

“offence” means any conduct punishable under the Criminal Law Code or as a criminal offence under any other enactment;

“offender” means a person convicted of a crime or an offence;

“person with disability” means a person with a physical, mental or sensory disability, including visual, hearing, or speech functional disability, which gives rise to physical, cultural or social barriers inhibiting him or her from participating at an equal level with other members of society in activities, undertakings or fields of employment or recreation that are open to other members of society;

“presumptive penalty” means a penalty expressed as a specific amount of a fine or a specific period of imprisonment or both that is midway between an augmented penalty which may be imposed in aggravating circumstances and a diminished penalty which may be imposed in mitigating circumstances;

“probation officer” means a person registered as a social worker in terms of the Social Workers Act [*Chapter 27:21*], who is appointed in terms of the Criminal Procedure and Evidence, Regulations No. 487 of 1937;

“special circumstances” means any extraordinary factor arising out of the commission of the offence or which are peculiar to the offender, but does not include mitigating features which are of general application, justifying why a mandatory sentence should not be imposed;

“victim impact statement” means a pre-sentencing statement made by the victim of a crime or other person and presented to the court that details the physical, psychological, social or financial consequences of the offence on the victim or any other person connected to the victim;

“vulnerable victim” means any victim of an offence, who due to his or her age, gender, physical or mental condition or the particular environment of the commission of the offence, is at greater risk to the crime than normal.

Application

4. These guidelines shall apply to all criminal proceedings in the Supreme Court, High Court, magistrates court or any other court specified in a statute.

Binding nature of guidelines on judicial officers

5. (1) Where these guidelines have provided for a presumptive penalty, the courts shall pay due regard to the applicable sentencing guidelines when sentencing offenders.

(2) Where a sentencing court departs from a prescribed presumptive penalty as provided for in these guidelines it shall give reasons for that departure.

Objectives of sentencing

6. (1) The objective of a sentencing court shall be to correct, rehabilitate and punish a convicted offender to the extent and in such a manner that is just and proportionate. All sentences imposed must meet one or more of the following objectives—

- (a) Reformation/Rehabilitation: aimed at promoting a sense of responsibility on the part of offender and providing for opportunities to assist in his or her rehabilitation as productive and law-abiding member of society;
- (b) Retribution: aimed at ensuring that the offender should face a sentence that is equal in measure to the harm he or she has caused;
- (c) Deterrence: aimed at preventing or discouraging the offender from reoffending in future and to deterring other persons from engaging in criminal conduct;
- (d) Protection or prevention: aimed at protecting the public by separating certain offenders, especially dangerous or persistent offenders, from society, where necessary;
- (e) Restitution and Compensation: aimed at ensuring that the victim of the offence is recompensed for the injury which he or she has personally suffered or that any other person who can show some substantial and peculiar interest in the issue of the trial arising out of some injury which he or she individually suffered by the commission of the offence is compensated, and that the offender loses the benefits received from the criminal conduct. This includes restoration which is aimed at providing redress to the victim or the society affected by the crime.

- (2) All sentences must meet the following criteria—
- (a) Proportionality: meaning the sentence imposed should be the least onerous sanction appropriate in the circumstances and the maximum penalty prescribed for an offence should be imposed only in the most serious of cases;
 - (b) Parity/Equality: meaning that a sentence should be consistent with sentences imposed on other offenders for similar offences committed in similar circumstances;
 - (c) Totality: meaning that the nature and combined duration of the sentence imposed and any other sentences imposed on the offender should not be excessive.

Nature of punishment

7. Subject to the Act, the Criminal Law Code, and any other law, a court may impose any one or more of the following punishments—

- (a) sentence of death;
- (b) imprisonment for life;
- (c) imprisonment for a determinate period;
- (d) extended imprisonment;
- (e) a fine;
- (f) community service.

General provisions on aggravating circumstances

8. Subject to the Criminal Law Code or any other law, the following circumstances shall be taken as aggravating—

- (a) previous conviction(s);
- (b) evidence of prior planning and premeditation;
- (c) where the offence was committed in furtherance of organised crime or the perpetrator was part of an organised criminal gang;
- (d) where the offender targeted, harmed or prejudiced a vulnerable victim(s);
- (e) where the offence was committed with repeated, gratuitous violence and/or cruelty or other forms of degradation;

- (f) where the offender abused a position of power, authority or trust;
- (g) where the offender played a leading or significant role in the commission of the offence;
- (h) there were multiple victims or multiple incidents;
- (i) a firearm or other dangerous weapon was used to commit the offence;
- (j) the offence resulted in considerable material or economic loss to a victim of crime;
- (k) the offence was targeted at a law enforcement officer or public prosecutor performing his or her functions as such, whether on duty or not, or a law enforcement officer or public prosecutor who was targeted by virtue of his or her holding such a position;
- (l) the offence was targeted at a person who has given or is likely to give material evidence with reference to offence referred to in the First Schedule of the Act; and
- (m) where the motive for the offence was founded on any one or more of the prohibited grounds of discrimination listed in section 56(3) of the Constitution.

General provisions on mitigating circumstances

9. Subject to the Criminal Law Code or any other law, the following factors may be taken into consideration by the court as mitigating the sentence that may be imposed—

- (a) the person is a first offender;
- (b) the offender readily admits the charge(s) and pleads guilty;
- (c) evidence of genuine remorse or contrition;
- (d) evidence of physical or mental impairment of the offender;
- (e) youthfulness of the offender;
- (f) remote likelihood of re-offending and positive prospects for rehabilitation;
- (g) the offender is elderly or is a female;

- (h) evidence of provocation by the victim;
- (i) where applicable, evidence that intoxication was a contributing factor in the commission of the offence.
- (j) evidence that restitution or compensation was voluntarily made by the offender;
- (k) evidence that the offender played a minor role in the commission of the offence; and
- (l) evidence that the offender spent inordinate time in pre-trial detention.

For the avoidance of doubt, it is declared that the circumstances enumerated in sections *eight* and *nine* as being aggravating or mitigating are not exhaustive, and that a court may find other circumstances in which any offence is committed to be either aggravating or mitigating for the purposes of arriving at an appropriate sentence.

Table of presumptive penalties

10. The table prescribes for each offence included therein, a presumptive penalty, together with the aggravating and mitigating circumstances that may justify a sentencing court in departing from the presumptive penalty.

Offences with prescribed minimum penalties

11. Where a minimum penalty is prescribed in the enactment concerned as punishment for the offence the court—

- (a) upon convicting the offender and before imposing sentence shall explain to the offender the meaning of special circumstances and inform him or her that the burden of proving the existence of special circumstances lies on him or her;
- (b) shall record the explanation of special circumstances and the reply or any statement made to court by the offender in connection with the existence of special circumstances;
- (c) where it finds that no special circumstances exist shall impose the minimum penalty prescribed by the enactment concerned as punishment for the offence;
- (d) where it finds that special circumstances exist shall record the factors it found as constituting special

circumstances and impose an appropriate sentence after taking into account both the mitigating and aggravating circumstances in the matter.

Pre-sentencing hearing

12. (1) Prior to sentencing an offender, a court shall inquire into and investigate the following—

- (a) the characteristics of the offender including his or her social background;
- (b) the characteristics of the victim(s) of the offence including the impact of the offence on such victim(s);
- (c) the probability of the offender committing a similar or other offences;
- (d) the desirability or need to protect the victim(s) or society from the offender; and
- (e) the ability of the offender to make restitution to the victim(s) or to society.

(2) The offender shall address the court first, personally or through a representative on matters listed in subsection (1) and on any other mitigating factors. In doing so, the offender may call the evidence of witnesses.

(3) The State shall have the onus to produce proof of the offender's previous convictions if any and evidence on all the matters listed in subsection (1) if any.

(4) The court shall explain to the offender his or her right of response and shall afford the offender the opportunity to respond.

Sentencing judgment

13. (1) A judicial officer shall give his or her reasons for sentence in the form of a sentencing judgment.

(2) The court shall write a sentencing judgment which follows as near as possible the structure prescribed in the Second Schedule.

GENERAL AND MISCELLANEOUS PROVISIONS AS TO PUNISHMENTS

Imprisonment

14. (1) Subject to the provisions of the Table of Presumptive Penalties, before imposing a sentence of imprisonment the sentencing

court should first consider all appropriate non-custodial forms of punishment and shall take into account the following factors—

- (a) the likelihood of the offender reoffending;
- (b) the likelihood of the offender reforming himself or herself whilst in prison;
- (c) the deterrent value of the sentence;
- (d) whether the sentence can be justified only in terms of retribution;
- (e) whether the sentence can be justified on the basis of protecting society by keeping a hardened offender off the streets.

Imprisonment in default of payment of a fine

15. Whenever a person is convicted of an offence punishable by a fine, the court may, in imposing a fine, impose a period of imprisonment as an alternative to the fine.

Periodical imprisonment

16. (1) Where a person is convicted of an offence specified in the Sixth Schedule to the Act, the court may, instead of imposing any other punishment, sentence that person to periodical imprisonment for a period not less than ninety-six hours and not more than two thousand hours.

(2) A court opting for periodical imprisonment shall first ascertain from the officer in charge of the appropriate prison facility that accommodation for the purpose is available, without which periodical imprisonment cannot be imposed.

(3) Periodical imprisonment may be considered if imprisonment is the appropriate penalty for the offence and if, for example, it is desirable that an offender who is in regular employment should be allowed to continue his work and support his family while serving his sentence.

(4) The court may consider imposing a sentence of periodical imprisonment, where appropriate, on a person convicted of the following offences—

- (a) driving with a prohibited concentration of alcohol in the blood;

- (b) driving while under the influence of alcohol or a drug;
- (c) refusing to submit to a breath analysis test;
- (d) refusing to supply a blood sample upon request by a police officer;
- (e) failing to pay maintenance.

Fine

17. Where a statute provides for a penalty of a fine or imprisonment, a sentencing court shall first consider the option of a fine and where it is considered that a fine is not appropriate the court shall then consider other non-custodial sentences.

Community service

18. (1) Subject to section 350A of the Act and to the existing Community Service Guidelines, a community service penalty may be imposed on a person convicted of any offence, unless a law expressly provides that a community penalty may not be imposed.

- (2) Community service may be imposed—
 - (a) as an alternative to a fine;
 - (b) as a condition of suspension of a sentence of imprisonment;
 - (c) directly as a substantive sentence:

Provided that the court shall give reasons for the community service order.

(3) Where community service is imposed as an alternative to a fine, it shall only be imposed where the appropriate sentence is a fine and the convicted person is genuinely unable to pay the fine.

(4) The court may impose community service directly where it does not wish the convicted person to go to prison or to pay a fine, for example, where the fine might be paid by someone else or where a fine would have little deterrent effect but imprisonment would be inappropriate.

- (5) The Court imposing community service shall specify—
 - (a) the number of hours per month of community service that the person is required to serve; and

- (b) the type of community service work that the person is required to perform.

(6) Where a minimum penalty is prescribed in the enactment concerned as punishment for the offence, it shall be impermissible for the court to impose a community service sentence.

Concurrent and cumulative sentences

19. (1) The discretion to impose concurrent or consecutive sentences lies with the court having regard to the principle of totality.

(2) Where a person is convicted at one trial of two or more counts, the court shall impose separate sentences for separate offences.

(3) The court may only consider the imposition of one globular sentence for two or more offences where the offences are the same or are of a similar nature and are closely linked in time.

Postponement or suspension of sentence

20. (1) Subject to section 358 of the Act any court which has convicted a person of any offence other than an offence specified in the Eighth Schedule of the Act may—

- (a) postpone the passing of sentence for a period of up to five years and release the offender on such conditions as the court may specify; or
- (b) pass sentence, but suspend the whole or part of it for up to five years on such conditions as the court may specify; or
- (c) sentence the offender to a fine, and alternatively to a period of imprisonment, but give the offender time to pay.

(2) The conditions of postponement or suspension of sentence may relate to any one or more of the following matters—

- (a) good conduct;
- (b) compensation for damage or pecuniary loss caused by the offence;
- (c) subject to the consent of the victim, the rendering of some specified benefit or service to any person injured or aggrieved by the offence;

- (d) the rendering of service for the benefit of the community or a section thereof;
- (e) submission to instruction or treatment;
- (f) submission to the supervision or control of a probation officer or other suitable person;
- (g) compulsory attendance or residence at some specified centre for a specified purpose;
- (h) any other matter which the court considers it necessary or desirable to specify having regard to the interests of the offender or any other person or of the public generally.

(3) The court shall ensure that the conditions it specifies for the postponement or suspension of sentence are appropriate to the crime and stated with such precision that the offender clearly understands the ambit of the condition.

Special categories of offenders

21. (1) Where the offender is a child the court shall have regard to the following—

- (a) that the best interests of the child are the paramount consideration when determining the most appropriate sentence to impose and the court shall strive as best as it can to ensure that the sentence is rehabilitative in nature;
- (b) a report prepared by a probation officer is a compulsory part of the pre-sentencing information;
- (c) imprisonment as a sentence imposed on a child is to be used only as a last resort and then only for the shortest possible period of time.

(2) Where the offender is a female the court shall have regard to the following principles—

- (a) non-custodial sentences should, where possible, be considered in respect to pregnant women, nursing mothers or women with dependent children;
- (b) imprisonment in respect to female offenders should only be considered where the offender has been convicted of an offence which is serious or violent or where the

female offender was jointly convicted with a male offender and there is nothing to indicate that the male offender was the dominant partner;

- (c) where evidence is presented showing that the offender is a primary caregiver, then, the court shall ascertain and take into account the effects of a sentence of imprisonment on the dependents if such a sentence were to be imposed.

(3) Where the offender is an elderly offender, the court shall have regard to the health status and increased physical vulnerability of the offender, and unless the offence is serious in nature, shall avoid imposing a custodial sentence.

(4) Where the convicted offender is a person with disabilities before imposing any sentence the court shall consider the nature and severity of the disability and the effects of the disability in regard to the capacity of the offender to cope or comply with the proposed sentence.

(5) Where the offender has a drug dependency problem the court shall have regard to the following—

- (a) that persons with drug dependency problems are both victims and perpetrators of drug offences;
- (b) a court sentencing a person with a drug dependency problem convicted of possession or use of drugs, shall impose a sentence that strikes a balance between deterrence and rehabilitation.

FIRST SCHEDULE (*Section 12*)

SENTENCING PROCEDURE

- (1) *Introduction*
[Nature of the offence for which the offender was indicted or charged, and any other relevant information (age, who the offender is)]
- (2) *The plea*
[Record the offender's plea]
- (3) *The relevant facts*
[If there was a contested trial, refer briefly to the evidence called]
[If there was a plea of guilty, refer to the summary of facts or the agreed basis of plea]

- (4) *The law*
[Explain the meaning of special circumstances to the offender]
[The explanation given to the accused must be recorded]
- (5) *Offender's statement on offender characteristics*
[Record the statement and evidence given by the offender in respect to his or her characteristics and mitigation generally]
- (6) *Rebuttal by the state*
[Record the statement and evidence by the state on the offence characteristic, impact of the offence on the victim(s) and aggravation generally]
- (7) *Response by the offender*
[Record the statement of the offender in response]
- (8) *Ruling*
[Record ruling including special circumstances found to exist, if applicable and explain to the offender the court's finding]
- (9) *Pronounce Sentence*
[Where no special circumstances are found proceed to explain the sentence to the offender and ensure that it is properly recorded]
- (10) *Where special circumstances are found to exist—*
[Proceed to hear and record aggravation and mitigation]
[Consider reports and other written documents provided to the court, if any, e.g. social worker report, forensic psychiatric report, medical reports, testimonials]
- (11) *The normal range*
[Case law in respect to the offence and suggested range and type of sentence]
- (12) *Pronounce Sentence*
[Explain the sentence to the offender and ensure that it is properly recorded]
[Record/explain the interplay of mitigating and aggravating factors that justify the sentence imposed in detail]

SECOND SCHEDULE (*Section 13*)

STRUCTURE OF SENTENCING JUDGMENT

- (1) *Introduction*
[State the offence for which the offender was indicted or charged, and any other relevant information for example name, age and sex]
- (2) *The plea*
[Record the offender's plea]

Criminal Procedure (Sentencing Guidelines) Regulations, 2023

- (3) *Conviction on different offence*
[Where offender is convicted on an alternative charge or a permissible competent charge, indicate this fact]
- (4) *The relevant facts*
[If there was a contested trial, refer briefly to the evidence called]
[If there was a plea of guilty, refer to the summary of facts or the agreed factual basis of plea]
- (5) *The law*
[Statutory provisions: state relevant provisions e.g., minimum/maximum sentence provisions, mandatory disqualification, etc.]
[Common law: guideline sentencing judgments, established sentencing trends]
- (6) *Reports and other written documents provided to the court* (if none were produced or are relevant, please state)
[Social worker reports]
[Forensic psychiatric reports]
[Medical reports]
[Testimonials, etc.]
- (7) *The normal range of sentence*
[Case law in respect to the offence and suggested range and type of sentence. If a presumptive penalty is provided, state as such]
- (8) *Mitigating factors*
[List the mitigating factors found to exist]
- (9) *Aggravating factors*
[List the aggravating factors found to exist]
- (10) *Pronounce sentence*
[Explain the sentence to the offender and ensure that it is properly recorded]
[Record/explain the interplay of mitigating and aggravating factors that justify the sentence imposed in detail]

THIRD SCHEDULE (Section 10 of SI 146 of 2023)
 TABLE OF PRESUMPTIVE PENALTIES
 OFFENCES UNDER THE CRIMINAL LAW (CODIFICATION AND REFORM) ACT [CHAPTER 9:23]

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
C/S 36 (Public Violence),	<ul style="list-style-type: none"> The offender was armed. The offender had a political motive. The offender attacked the police or other persons in authority. The offender was in a position of authority or influence. The offender instigated the infliction of bodily injury or the causing of damage to property. Bodily injury or damage to property occurred. High degree of force required to quell the violence. Lengthy duration of period of public violence. High magnitude of the violence. 		Level 12 fine/ 10 years imprisonment.	3 years imprisonment.
	<ul style="list-style-type: none"> Where the action constituting the public violence was spontaneous. Where there was no damage to property or injury to people. Where the offender was not armed. Where the disturbance or invasion was of a private as opposed to a public nature. 			Level 6 fine.

Criminal Procedure (Sentencing Guidelines) Regulations, 2023

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
<p>C/S 37 (Participating in a gathering with intent to promote public violence, breaches of peace or bigotry).</p>	<ul style="list-style-type: none"> • Premeditation. • Where the motive was to engender, promote, or to expose hatred, contempt or ridicule against any group, section, or class of persons on account of any one or more of the prohibited grounds of discrimination listed in s 56(3) of the Constitution. • Involvement of a large number of people. • Instigator or convener of the gathering. 	<ul style="list-style-type: none"> • The offender took efforts to arrest the deterioration of the situation or escalation of the violence. • Where the offender voluntarily paid compensation for any damage or injury caused. • The disturbance was isolated. • The disturbance was of a limited duration. 	<p>Level 10 fine/5 years imprisonment.</p>	<p>24 months imprisonment</p>
		<ul style="list-style-type: none"> • Where the disturbance was spontaneous. • Where the offender joined in an ongoing disturbance. • Where the offender was one of few participants in the gathering. 		<p>Level 4 fine.</p>
<p>C/S 38 (Obstructing or endangering free movement of persons or traffic).</p>	<ul style="list-style-type: none"> • Where a dangerous missile or item was propelled. • Premeditation. • Distraction of property • The impact of obstruction on traffic and the public was severe. 			

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
	<ul style="list-style-type: none"> The obstruction took place over a considerable duration. The offence was committed by an organised gang. 	<ul style="list-style-type: none"> Offender assisted in restoration of orderly traffic. 	Level 12 fine/10 years imprisonment.	3 years imprisonment.
C/S 39 (Dealing in or possession of prohibited knives).	<ul style="list-style-type: none"> Proximity to a public place or a learning institution. Extensive distribution of knives. Large quantity of knives. 		Level 6 fine/1 year imprisonment.	Level 4 fine. Level 5 fine.
C/S 40 (Possession of articles for criminal use).	<ul style="list-style-type: none"> Dangerous articles possessed. Large quantity of articles possessed. Possession as part of the activities of a gang. 	<ul style="list-style-type: none"> One knife possessed. No evidence of dealing. 	Level 10 fine/1 year imprisonment.	Level 3 fine. 6 months imprisonment.
C/S 41 (Disorderly conduct in public place).		<ul style="list-style-type: none"> One article possessed. Article possessed not dangerous. 		Level 4 fine.
C/S 42 (Causing offence to persons of a particular race, religion, etc.).	<ul style="list-style-type: none"> Premeditation. Words or conduct highly provocative or insulting. Negative impact on the community. 		Level 5 fine/6 months imprisonment.	Level 2 fine.
			Level 6 fine/1 year imprisonment.	6 months imprisonment.

Criminal Procedure (Sentencing Guidelines) Regulations, 2023

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
C/S 43 (Possession of offensive weapons at public gatherings).	<ul style="list-style-type: none"> • Large quantity possessed. • Weapon modified for better effect. • Possession of weapon as part of an organised gang or group. • Concealment of weapon from security checks. • Possession of weapon in furtherance of political or tribal or cultural differences within the gathering. 	<ul style="list-style-type: none"> • Voluntary public apology. 	Level 10 fine/5 years imprisonment.	Level 4 fine. 24 months imprisonment.
C/S 44 (Disrupting a public gathering).	<ul style="list-style-type: none"> • Conduct highly riotous. • Words or conduct highly threatening, abusive and insulting. 		Level 5 fine/6 months imprisonment.	3 months imprisonment.
C/S 45 (Intimidation).	<ul style="list-style-type: none"> • Conduct or words highly threatening. • intimidation over a period of time. • Degree of planning. • Offender in a position of authority/ influence. • Offender in <i>loco parentis</i>. 	<ul style="list-style-type: none"> • Offender voluntarily apologised to the gathering. 	Level 10 fine/5 years imprisonment.	Level 4 fine. 24 months imprisonment.
C/S 46 (Criminal nuisance).	<ul style="list-style-type: none"> • Conduct highly offensive. • Conduct persistently carried out. • Conduct aimed at a targeted victim on account of any one or more of the prohibited grounds of discrimination listed in s 56(3) of the Constitution. 	<ul style="list-style-type: none"> • Voluntary apology. 	Level 5 fine/6 months imprisonment.	Level 4 fine. 3 months imprisonment.

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
<p>C/S 47 (Murder).</p>	<ul style="list-style-type: none"> • Premeditation. • Where the murder victim was— <ul style="list-style-type: none"> (i) a law enforcement officer or prison officer or public prosecutor performing his or her functions as such, whether on duty or not, or a law enforcement officer or prison officer or public prosecutor who was killed by virtue of his or her holding such a position; or (ii) a person who had given or was likely to give material evidence with reference to any offence referred to in the First Schedule to the Act. • Where the death of the victim was caused by the offender in committing or attempting to commit or after having committed or having attempted to commit one of the following offences— <ul style="list-style-type: none"> (i) an act of insurgency, banditry, sabotage or terrorism; or (ii) the rape or other sexual assault of the victim; or (iii) the kidnapping or illegal detention robbery, hijacking, piracy or escaping from lawful custody; or (iv) unlawful entry into a dwelling house, or malicious damage to property if the property in question was a dwelling house and the damage was effected by the use of fire or explosives. 	<ul style="list-style-type: none"> • Voluntary Compensation for damage or nuisance caused. • Voluntary apology. 	<p>20 years/Life imprisonment.</p>	<p>Level 2 fine. 20 years' imprisonment.</p>

Criminal Procedure (Sentencing Guidelines) Regulations, 2023

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
	<ul style="list-style-type: none"> Where the murder was committed by a person, group of persons or syndicate acting in the execution or furtherance of a common purpose or conspiracy. Where the accused attempted to obstruct justice after the fact, e.g., by concealing, destroying or dismembering the body. Where the motive for the murder was on account of any one or more of the prohibited grounds of discrimination listed in section 56(3) of the Constitution. Where the murder was preceded or accompanied by subjecting the victim to torture or to cruel, inhuman, or degrading treatment or punishment; or Where the murder was achieved by use of a weapon. 			
		<ul style="list-style-type: none"> Deceased was the aggressor. Deceased was participant in criminal conduct. The offender acted out of passion. High degree of provocation. Attempt by offender to give assistance/summon help after commission of offence. 		15 years imprisonment.

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
<p>C/S 47 (Attempted murder).</p>	<ul style="list-style-type: none"> • Premeditation. • Sophisticated execution. • Use of a weapon. • The victim was a law enforcement agent or a public prosecutor performing his/her functions whether on duty or not. • Subjecting the victim to cruel, inhuman, and/or degrading treatment. • Offence committed in the course of a rape, aggravated indecent assault or robbery in aggravating circumstances. • Offender attempts to obstruct justice after the offence. • Use of duress and threats. • Where the offence was motivated on account of any one or more of the prohibited grounds of discrimination listed in section 56(3) of the Constitution. 		<p>20 years/Life imprisonment.</p>	<p>5 years imprisonment</p>
<p>C/S 48 (Infanticide).</p>	<ul style="list-style-type: none"> • Mature woman. • Cruel and inhuman manner of killing infant. • Killing motivated by self-interest rather than emotional stress. 	<ul style="list-style-type: none"> • The victim was the aggressor. • Victim was a participant in criminal conduct. • The offender acted out of passion. • High degree of provocation. • Attempt by offender to give assistance/summon help after commission of offence. 	<p>5 years imprisonment.</p>	<p>24 months' imprisonment.</p>

Criminal Procedure (Sentencing Guidelines) Regulations, 2023

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
		<ul style="list-style-type: none"> • First pregnancy. • Offender not married to the father of the child and father of child not assuming responsibility for pregnancy and child. 		12 months imprisonment.
C/S 49 (Culpable homicide).	<ul style="list-style-type: none"> • High degree of negligence. • Multiple deaths. • Cruel and inhuman treatment of the deceased. 		Level 14 fine/Life imprisonment.	5 years imprisonment.
		<ul style="list-style-type: none"> • Contributory negligence by the deceased. • Compensation paid. • Rendering assistance to the deceased. 		3 years imprisonment.
C/S 49 (Culpable homicide arising from a road traffic accident).	<ul style="list-style-type: none"> • Driving under the influence of alcohol or drugs. • Fleeing the scene. • Multiple deaths. • Deliberate flouting of the Highway Code. • Gross negligence and recklessness. 		Level 14 fine/Life imprisonment.	24 months imprisonment.
		<ul style="list-style-type: none"> • Inexperienced driver. • Offender suffered injury during the accident. • Voluntary payment of civil damages. • Contributory negligence by the deceased. • The relationship between the offender and the deceased. 		6 months imprisonment.

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
<p>C/S 60 (Unlawful Termination of Pregnancy).</p>	<ul style="list-style-type: none"> • Mature woman. • Procured termination of pregnancy of another. • Where procuring the termination of the pregnancy of another led to subjecting the other to cruel or inhuman treatment. 	<ul style="list-style-type: none"> • First pregnancy. • Offender not married to the person who impregnated her and is denying responsibility for the pregnancy. • Pregnancy the result of non-consensual sexual intercourse. • Offender falling seriously unwell as a result of the pregnancy. 	<p>Level 10 fine/5 years imprisonment.</p>	<p>12 months imprisonment.</p>
				<p>6 months imprisonment.</p>
	<ul style="list-style-type: none"> • Additional degradation or humiliation of the victim. • Recording of the offence. • Distribution of the recording of the offence. • Offence motivated by or demonstrating hate for the victim. • Use of weapon to subdue victim. • Obstruction of justice • Subjecting victim to senseless physical pain and/humiliation. • Administering drugs or alcohol to victim to facilitate the offence. 		<p>Life imprisonment/ Any definite period of imprisonment of not less than 15 years if committed in aggravating circumstances</p>	<p>20 years imprisonment.</p>

Criminal Procedure (Sentencing Guidelines) Regulations, 2023

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
C/S 65 (Rape).	<ul style="list-style-type: none"> • Offence committed while the offender was on bail. • Offence committed while the offender was the subject of a domestic violence order. • Offender forced or effected uninvited entry into victim's home. • Offender infected the victim with a sexually transmitted disease. • The victim was an infant or child. • The victim was a vulnerable person. • Offender was parent to the victim. • Offender was guardian of victim. • Offender was in <i>loco-parentis</i> to the victim. • Offender was related to the victim within a prohibited degree of relationship mentioned in subsection (2) of section <i>seventy-five</i>. • Offender was in a position of authority or direct influence over the victim. • The offence occurred in a place regarded as a sanctuary. • High degree of physical and or emotional harm. 			
		<ul style="list-style-type: none"> • Minimum physical force used. • Minor physical injury to the victim. 		10 years imprisonment.

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
C/S 66 (Aggravated indecent assault).	<ul style="list-style-type: none"> Refer to section 65 above. 	<ul style="list-style-type: none"> Refer to section 65 above. 	Life imprisonment/ Any definite period of imprisonment.	20 years imprisonment.
C/S 67 (Indecent assault).	<ul style="list-style-type: none"> Multiple victims. Evidence of a pattern of sexual misconduct. Recording of the offence. Distribution of the recording of the offence. Offence motivated by any one or more of the prohibited grounds of discrimination listed in s 56(3) of the Constitution. Use of a weapon. Offender forced entry into the victim's home, office or private space. Violence, or threats of violence to subdue victim. Offender in position of authority or influence over victim. Multiple and prolonged acts. Offence committed in the presence of others, especially children. 		Level 7 fine /2 years imprisonment.	10 years imprisonment. 12 months imprisonment.
		<ul style="list-style-type: none"> Spontaneous act. Minimal or no physical force used. No physical injury to the victim. 		Level 4 Fine.

Criminal Procedure (Sentencing Guidelines) Regulations, 2023

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
C/S 70 (Having sexual intercourse with a young person).	<ul style="list-style-type: none"> Age disparity between the offender and the victim was wide. Offence resulted in pregnancy or STL. Offender in position of trust or authority over the young person. Offender promised to marry the young person. Offender exposed the young person to harmful sexual content. Prolonged sexual relationship. 		Level 12 fine/10 years imprisonment.	3 years imprisonment.
C/S 73 (Sodomy)		<ul style="list-style-type: none"> Offence was committed by two children under 18 years. 		Level 4 fine.
C/S 74 (Bestiality)	<ul style="list-style-type: none"> Injury or death of the animal or bird as a result of the offence. Multiple or prolonged acts. 		Level 14 fine /1 year imprisonment.	8 months imprisonment.
		<ul style="list-style-type: none"> Animal or bird suffers minor or no injury. Voluntary compensation paid to owner of animal or bird. 	Level 14 fine /1 year imprisonment.	6 months imprisonment.
C/S 75 (Sexual intercourse within a prohibited degree of relationship).	<ul style="list-style-type: none"> Offence resulted in pregnancy or the birth of a child or children. 		Level 14 fine/5 years imprisonment.	Level 4 fine. 12 months imprisonment.

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
C/S 77 (Public indecency).	<ul style="list-style-type: none"> Words or conduct highly offensive. No prior relationship between the offender and the offended party. 	<ul style="list-style-type: none"> Apology to the persons offended. 	Level 9 fine /6 months imprisonment.	4 months imprisonment.
C/S 78 (Deliberate transmission of STD).	<ul style="list-style-type: none"> Premeditation When the effect is to cause irreparable harm to the victim. 		Level 14 fine /5 years imprisonment.	Level 4 fine.
C/S 81 (Soliciting).			Level 5 fine/6 months imprisonment.	Level 3 fine.
C/S 82 (Living off prostitution).			Level 7 fine/2 years imprisonment.	Level 5 fine.
C/S 83 (Procuring).	<ul style="list-style-type: none"> Where the person procured was a child. Multiple victims. 		Level 14 fine/10 years (where it is a child).	5 years imprisonment.
			2 years imprisonment (in any other case).	1 year imprisonment.
		<ul style="list-style-type: none"> Singular act or victim. 		Level 10 fine.
C/S 84 (Coercing or inducing persons for purpose of engaging in sexual conduct)	<ul style="list-style-type: none"> Multiple victims. Dangerous and habit-forming drugs used on the victim. 		Level 10 fine/5 years imprisonment.	6 months imprisonment.
		<ul style="list-style-type: none"> Singular act. 		Level 5 fine.

Criminal Procedure (Sentencing Guidelines) Regulations, 2023

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
C/S 85 (Detaining persons for purposes of engaging in unlawful sexual conduct).	<ul style="list-style-type: none"> Multiple victims. 		Level 6 fine/1 year imprisonment.	Level 4 fine.
C/S 86 (Permitting young person to resort to a place for the purpose of engaging in unlawful sexual conduct).	<ul style="list-style-type: none"> Multiple young persons involved. Prolonged practice. Permission granted in return for a fee or favour. 		Level 11 fine/10 years imprisonment (if the young person is under 12 years old).	24 months imprisonment.
			Level 10 fine/7 years imprisonment (if the young person is over 12 years old).	24 months imprisonment.
C/S 87 (Allowing a child to become a prostitute).	<ul style="list-style-type: none"> Offender parent to the child. Offender in loco parentis to the child. 		Level 14 fine/10 years imprisonment.	3 years imprisonment.
C/S 89 (Assault).	<ul style="list-style-type: none"> Premeditation Use of a weapon. Victim sustained grievous bodily harm. Assault committed as part of a pattern of abuse. 		Level 14 fine/10 years imprisonment.	2 years imprisonment.

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
	<ul style="list-style-type: none"> Gang assault. Offence politically motivated. Offence motivated by any one or more of the prohibited grounds of discrimination listed in section 56(3) of the Constitution. 	<ul style="list-style-type: none"> Victim sustains no or minor injury. Isolated incident. Offender played a minor role in a multi-participant situation. No weapon used. Compensation paid. 		Level 4 fine.
C/S 93 (Kidnapping).	<ul style="list-style-type: none"> Demand for ransom. Accompanied by violence or the threat of violence Involved the infliction of grievous bodily harm. Lengthy duration of deprivation of liberty Multiple victims. Subjected the victim(s) to cruel and degrading conditions. Victim(s) sustained serious injuries. 		Life imprisonment/ Any definite period of imprisonment.	4 years imprisonment.
		<ul style="list-style-type: none"> Offender is a parent of the child Victim was subjected to no violence or threats of violence. The offence was over a short duration. 	Level 7/fine/2 years imprisonment.	12 months imprisonment.
C/S 94 (Pledging of female persons).	<ul style="list-style-type: none"> Offender in a position of authority or influence. Disruption of female's learning or other developmental opportunities. Offender in <i>loco parentis</i>. 		Level 14 fine/2 years imprisonment.	12 months imprisonment.

Criminal Procedure (Sentencing Guidelines) Regulations, 2023

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
C/S 104 (Bigamy).			Level 6 fine/1 year imprisonment.	Level 4 fine.
C/S 113 (Theft).	<ul style="list-style-type: none"> • Items stolen of considerable value. • Stolen items not recovered. • Offender in position of trust. • Sophisticated execution of theft. • Committed by an organised gang. 	<ul style="list-style-type: none"> • Items stolen of low or insignificant value. • Voluntary restitution or compensation to the victim. • Full recovery of the stolen goods. 	Level 14 fine/25 years imprisonment.	10 years imprisonment.
C/S 114 (Stock theft) (other than bovine or equine animal).	<ul style="list-style-type: none"> • Substantial value of stolen stock. • Stolen stock not recovered • Offence committed by an organised gang. • Offender in a position of trust. 		Level 14 fine /25 years.	Level 4 fine or twice the value of the property whichever is greater. 24 months imprisonment.
C/S 114 (Stock theft) (Theft of a bovine or equine animal).		<ul style="list-style-type: none"> • Stolen stock is fully recovered. • Value of stock stolen is low • Offender voluntarily restituting full value of stolen stock. 		Level 7 fine or twice the value of the stock whichever is greater. Minimum mandatory 9 years' imprisonment.
C/S 116 (Unauthorized borrowing).	<ul style="list-style-type: none"> • Substantial economic loss. • Offender in a position of trust. 		Level 14 fine /2 years imprisonment.	24 months' imprisonment.

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
		<ul style="list-style-type: none"> Property of low or insignificant value. Property fully or substantially recovered. Offender voluntarily restituting full value of property. 		Level 7 fine or twice the value of the property whichever is greater.
C/S 117 (Making off Without payment).			Level 7 fine/2 years imprisonment.	Level 4 fine or twice the value of the goods or services, whichever is greater.
C/S 124 (Receiving stolen property knowing it to have been stolen).	<ul style="list-style-type: none"> Items stolen of considerable value. Stolen items not recovered. Offence committed while on bail for similar offences. Offence committed by an organised gang. 		Level 14 fine/25 years imprisonment.	15 years imprisonment.
		<ul style="list-style-type: none"> Property of low or insignificant value. Offender voluntarily restituted full value of goods. Property fully recovered. 		Level 4 fine or twice the value of the property whichever is greater.
C/S 125 (Possessing property reasonably suspected of being stolen).	<ul style="list-style-type: none"> Items suspected to have been stolen were of substantial value. 		Level 10 fine/5 years imprisonment.	Level 4 fine or twice the value of the property whichever is greater. 24 months' imprisonment.

Criminal Procedure (Sentencing Guidelines) Regulations, 2023

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
		<ul style="list-style-type: none"> Offender has restituted proceeds of the offence or compensated the victim voluntarily. Property is fully recovered. Property of low or insignificant value 		Level 5 fine or twice the value of the property whichever is greater.
C/S 126 (Robbery).	<ul style="list-style-type: none"> High value goods or sums targeted or stolen. Death of a person. Serious injury inflicted or threatened. 		Life imprisonment/ Any definite period of imprisonment.	20 years' imprisonment.
		<ul style="list-style-type: none"> Low or insignificant value of property stolen. Armed with any other weapon that is not a firearm or a dangerous weapon. No injury inflicted on victim(s). 	Level 14 fine/50 years.	6 months imprisonment.
C/S 131 (Unlawful entry into premises).	<ul style="list-style-type: none"> Premises entered are a dwelling house. Offender knew that there were people present in the premises. Offender used violence against any person. Offender damaged or destroyed any property. Offender committed or intended to commit some other crime upon gaining entry into the premises. 		Level 13 fine/15 years imprisonment.	24 months imprisonment.
			Level 10 fine/10 years imprisonment.	Level 4 fine.
C/S 132 (Criminal trespass).			Level 5 fine/6 months imprisonment.	Level 3 fine.

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
<p>C/S 134 (Extortion).</p>	<ul style="list-style-type: none"> • Persistent or prolonged illegitimate pressure on the victim. • Use of actual violence or a threat of violence. • Offence motivated by economic gain and resulted in substantial economic loss. • Offender left or deposited the body of a deceased person on any land or premises occupied by the victim or the hindered or prevented of the burial of the deceased person's body. • Extortion was committed by a person, group of persons or syndicate acting in the execution or furtherance of a common purpose or conspiracy. 		<p>Level 15 fine /13 years imprisonment.</p>	<p>24 months imprisonment.</p>
		<ul style="list-style-type: none"> • Extortion did not result in financial or other loss to the victim. • Victim suffered minimal economic loss as a result of the extortion. 		<p>Level 4 fine.</p>
<p>C/S 136 (Fraud).</p>	<ul style="list-style-type: none"> • Items, funds or property involved were of a considerable value. • Funds or items involved not recovered. • Offender was in a position of trust. • Offender was a holder of a public office. • Offence involving loss of public funds. 		<p>Level 14 fine/35 years imprisonment.</p>	<p>20 years imprisonment</p>
		<ul style="list-style-type: none"> • Potential or actual prejudice was low or insignificant. • Voluntarily compensated the victim in full. 		<p>6 months imprisonment.</p>

Criminal Procedure (Sentencing Guidelines) Regulations, 2023

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
C/S 137 (Forgery).	<ul style="list-style-type: none"> Document was a public document. Forged document uttered Fraud was committed as a result of the offence. 		<ol style="list-style-type: none"> Level 14 fine/20 years imprisonment (Public document). Level 13 fine/15 years imprisonment (Any other document). 	3 years imprisonment.
C/S 140 (Malicious damage to property).	<ul style="list-style-type: none"> The use of fire or explosives. Offence caused injury or involved a risk of injury to persons in or near the property damaged or destroyed. Extensive damage to property. The damage or destruction was permanent. The property was public property or was owned in the public interest by the State, a local authority, or a statutory body. Offence was in furtherance of the commission of any act of domestic violence. 	<ul style="list-style-type: none"> The forged document was not uttered. Forgery did not cause actual prejudice. Offender fully compensated the victim 	Level 14 fine /25 years imprisonment.	Level 6 fine. 10 years imprisonment.
		<ul style="list-style-type: none"> Voluntarily paid compensation. Damage to the property was not permanent. Damaged or destroyed property was of low or insignificant value. 		Level 7 fine.

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
C/S 141 (Negligently causing serious damage to property).	<ul style="list-style-type: none"> • The use of fire or explosives. • Extensive damage to property. • Offence caused injury or involved a risk of injury to persons in or near the property damaged or destroyed. • The damage or destruction was permanent. • The property was public property or was owned in the public interest by the State, a local authority or a statutory body. 	<ul style="list-style-type: none"> • Voluntarily paid compensation. • Damage to the property was not permanent. • Damaged or destroyed property was of low or insignificant value. 	Level 10 fine/5 years imprisonment.	3 years imprisonment.
C/S 147 (Hijacking).				Level 7 fine.
C/S 148 (Damaging, destroying, or prejudicing safe operation of an aircraft).			Life imprisonment or any definite period of imprisonment.	20 years imprisonment.
C/S 149 (Assaulting, intimidating or threatening a person on an aircraft).			25 years imprisonment.	10 years imprisonment.
			5 years imprisonment.	2 years imprisonment.

Criminal Procedure (Sentencing Guidelines) Regulations, 2023

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
C/S 150 (Placing or carrying dangerous goods on an aircraft).			15 years imprisonment.	7 years imprisonment.
C/S 151 (Threatening harm in relation to an aircraft).			5 years imprisonment.	3 years imprisonment.
C/S 152 (Falsely threatening harm in relation to an aircraft).			Level 14 fine/5 years imprisonment.	Level 7 fine.
C/S 156 (Unlawful dealing in dangerous drugs).	<ul style="list-style-type: none"> • Offence committed on or in vicinity of school, other learning institution or any public institution. • Offence committed by a person, group of persons or syndicate acting in the execution of furtherance of a common purpose or conspiracy. • Weapons used. • Violence used. • Offender held a public office that facilitated the commission of the offence. • Offender incited a child to consume or deal in dangerous drugs. • Large quantities involved. 		Level 14 fine/20 years imprisonment.	15 years imprisonment.

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
<p>C/S 157 (Unlawful Possession or use of dangerous drugs).</p>	<ul style="list-style-type: none"> • Large quantity of drugs involved. • Possession of drugs in a public place. • Attempt to conceal evidence. 	<ul style="list-style-type: none"> • Insignificant amount of drugs involved. 	<p>Level 14 fine/15 years imprisonment.</p>	<p>Level 4 fine.</p>
		<ul style="list-style-type: none"> • Possession of a small quantity of the drugs. • Drug for medicinal use. 	<p>Level 10 fine/5 years imprisonment.</p>	<p>3 years imprisonment.</p>
<p>C/S 159 (Permitting premises to be used for the unlawful dealing in or use of dangerous drugs).</p>	<ul style="list-style-type: none"> • Large quantities involved. • Premises were primarily used for dealing with drugs. • Sophisticated manner of concealing drugs. 		<p>Level 14 fine/10 years imprisonment.</p>	<p>Level 5 fine and alternatively an order that the offender undergoes treatment for addiction. 6 years imprisonment.</p>
		<ul style="list-style-type: none"> • Small quantities involved. 		<p>2 years imprisonment.</p>

Criminal Procedure (Sentencing Guidelines) Regulations, 2023

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
C/S 160 (Concealing, disguising or enjoying the proceeds of the unlawful dealing in dangerous drugs).	<ul style="list-style-type: none"> Large quantities involved. 		Level 12 fine/10 years imprisonment.	6 years imprisonment.
C/S 163(1) (Hacking).	<ul style="list-style-type: none"> Committed in furtherance of a crime against the State. Conduct involving unauthorised access to critical information infrastructure. Offence was intended to or resulted in damaging or destroying or prejudicing safe operations of aircraft. Offence was intended to conceal or disguise proceeds of dealing in dangerous drugs. Offence resulted in defeating the course of justice. Offence seriously prejudiced the enforcement of law by any law enforcement agency. 	<ul style="list-style-type: none"> Offence committed in mitigating circumstances. 	Level 14 fine/5 years imprisonment.	2 years imprisonment. 5 years imprisonment.

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
	<ul style="list-style-type: none"> • Offence involved a computer, computer network, information communication network data, programme, or system involved was owned by the State; a law enforcement agency, the Defence Forces, the Prisons and Corrections Services, a statutory body or a local authority. • Considerable loss to owner of computer or system. • Offence seriously interfered with or disrupted an essential service. • Offence was in furtherance of organised crime within or outside Zimbabwe. • Conduct resulted in incapacity, destruction of or interference with the system or asset concerned. 			
<p>C/S 163A (1) Or (2) (Unlawful acquisition or possession of data).</p>	<ul style="list-style-type: none"> • Same aggravating factors as in section 163(1) above. 	<ul style="list-style-type: none"> • Conduct involved unauthorised access to non-critical information infrastructure. 	<p>Level 14 fine/5 years imprisonment</p>	<p>Level 7 fine. 3 years imprisonment</p>
		<ul style="list-style-type: none"> • Conduct involved acquisition of data from non-critical information infrastructure or possession of data therefrom. 		<p>Level 7 fine.</p>

Criminal Procedure (Sentencing Guidelines) Regulations, 2023

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
C/S 163B (1) (Unlawful interference with data or data storage medium).	<ul style="list-style-type: none"> Same aggravating factors as in section 163(1) above. 		Level 10 fine/5 years imprisonment.	3 years imprisonment.
		<ul style="list-style-type: none"> Conduct involved interference with computer or information system forming part of non-critical information infrastructure. 		Level 5 fine.
C/S 163C (1) (Unlawful interference with computer or information system).	<ul style="list-style-type: none"> Conduct involved any of the aggravating circumstances listed in s 163F of the Criminal Law Code & the interference relates to a computer or information system that forms part of critical information infrastructure. 		Level 14 fine/10 years imprisonment.	5 years imprisonment.
		<ul style="list-style-type: none"> Same mitigating factors as in section 163B(1) above. 		Level 7 fine.
C/S 163D (1) (Unlawful Disclosure of data code).	<ul style="list-style-type: none"> Conduct involved disclosure of data code in relation to critical information infrastructure. Unlawful disclosure was in relation to data that forms part of a database or that involves national security or provision of an essential service. 		Level 12 fine/10 years imprisonment	5 years imprisonment.
		<ul style="list-style-type: none"> Conduct involved disclosure of data code in relation to non-critical information infrastructure. 		Level 6 fine.

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
<p>C/S 163E (1) (Unlawful use of data or devices for purposes of committing an offence).</p>	<ul style="list-style-type: none"> Conduct involved unlawful use of data or devices forming part of critical information infrastructure. Conducted amounted to an infringement of right to privacy. Conduct involved any of the aggravating circumstances listed in s 163F of the Criminal Law Code & the unlawful use relates to data or a device that forms part of "critical information infrastructure. 		<p>Level 10 fine/5 years imprisonment.</p>	<p>3 years imprisonment.</p>
<p>C/S 163E (2) (Unlawful Use of data or devices for purposes of causing damage to data, computer or information system or network).</p>	<ul style="list-style-type: none"> Violation of the right to privacy. Conduct involved unlawful use of system forming part of critical information infrastructure." 	<ul style="list-style-type: none"> <i>Same mitigating factors as in section 163D(1) above.</i> 	<p>Level 10 fine/5 years imprisonment.</p>	<p>3 years imprisonment.</p>
<p>C/S 163E (3) (Unlawful use of data Etc. In aggravating circumstances).</p>	<ul style="list-style-type: none"> Conduct involved any of the aggravating circumstances listed in s 163F of the Criminal Law Code & the unlawful use relates to data from or a device that forms part of "critical information infrastructure." 	<ul style="list-style-type: none"> Conduct involved unlawful use of system not forming part of non-critical information infrastructure. 		<p>Level 5 fine. 3 years imprisonment.</p>

Criminal Procedure (Sentencing Guidelines) Regulations, 2023

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
<p>C/S 164 (Incitement of violence or damage to property using data message).</p>	<ul style="list-style-type: none"> • Conduct resulted in minimal violence or damage to private or public owned property but did not involve serious injury to any person. • Conduct resulted in violence or damage of a grave nature, including but not limited to, serious injuries to persons and/or destruction of property whether public or private. • The target of incitement was property belonging to an essential service; owned by the State; a law enforcement or security service. 	<ul style="list-style-type: none"> • Same mitigating factors as in section 163D(1) above. 	<p>Level 10 fine/5 years imprisonment</p>	<p>Level 5 fine. 3 years imprisonment.</p>
<p>C/S 164A (1) (Sending threatening data messages).</p>	<ul style="list-style-type: none"> • Recorded images and messages distributed but not for commercial purposes. • Up skirting for purposes of distribution of recorded images and messages for commercial purposes. 	<ul style="list-style-type: none"> • Conduct did not result in actual violence or damage to property. 	<p>Level 10 fine/5 years imprisonment.</p>	<p>Level 5 fine. 3 years imprisonment</p>
<p>C/S 164B (Cyber-bullying or harassment).</p>	<ul style="list-style-type: none"> • Cyber-bullying resulted in moderate harm or injury to the victim. • Cyber-bullying resulted in substantial emotional distress, or humiliation or caused the victim to harm themselves. 	<ul style="list-style-type: none"> • No evidence of distribution of recorded images and messages. 	<p>Level 10 fine/10 years imprisonment.</p>	<p>Level 5 fine. 5 years imprisonment.</p>

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
		<ul style="list-style-type: none"> Cyber-bullying resulted in minimal harm or injury to the victim. 		Level 5 fine.
C/S 164C (Transmission of false data message intending to cause harm).	<ul style="list-style-type: none"> False transmission resulted in moderate psychological or economic harm to the victim. False transmission resulted in substantial psychological or economic harm to the victim. 		Level 10 fine/5 years imprisonment.	3 years imprisonment.
		<ul style="list-style-type: none"> False transmission resulted in minimal psychological or economic harm to the victim. 		Level 5 fine.
C/S 164D (Transmission of spam messages).			Level 5 fine/1 year imprisonment.	6 months imprisonment
				Level 3 fine.
C/S 164E (Non-consensual transmission of intimate images).	<ul style="list-style-type: none"> Transmission caused substantial embarrassment or humiliation to the victim. 		Level 10 fine/5 years imprisonment.	3 years imprisonment.
		<ul style="list-style-type: none"> Transmission caused minimal embarrassment or humiliation to the victim. 		Level 5 fine.
C/S 164F (Production of racist & xenophobic material).	<ul style="list-style-type: none"> Actual violence or harm of a significant nature occurred as a result of the production and dissemination of the hate material. 		Level 14 fine/10 years imprisonment.	5 years imprisonment.

Criminal Procedure (Sentencing Guidelines) Regulations, 2023

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
C/S 164G (Identify related offence through generation and transmission of data message).	<ul style="list-style-type: none"> Conduct caused moderate or substantial ill-consequences relating to any of the effects listed in subs (1) of s 164(G). 	<ul style="list-style-type: none"> No actual violence or insignificant harm occurred as a result of the production and dissemination of the hate material. 	Level 10 fine/ 10 years imprisonment.	Level 7 fine.
C/S165 (1) & (2) (Non-consensual recording of genitalia & buttocks or transmission or distribution of images thereof).	<ul style="list-style-type: none"> Recorded images distributed but whether or not for commercial purposes. 	<ul style="list-style-type: none"> Conduct caused minimal ill-consequences relating to any of the effects listed in subs (1) of s 164(G). Offender is a child. 	Level 10 fine/5 years imprisonment.	Level 5 fine. 3 years imprisonment.
		<ul style="list-style-type: none"> No evidence of distribution of recorded images. 		Level 5 fine.

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
<p>C/S 165A (1) (Production, offering, distribution, procuring & possession of child sexual abuse material).</p>	<ul style="list-style-type: none"> There was evidence of distribution of child sexual abuse material for whether or not meant for commercial purposes. 		<p>Level 14 fine/10 years imprisonment.</p>	<p>5 years imprisonment</p>
<p>C/S 165A (3) (Grooming children for sexual activities by means of ICTs).</p>	<ul style="list-style-type: none"> Offender's proposal to meet the child victim was followed by material acts leading to such meeting whether or not the actual meeting occurred. 	<ul style="list-style-type: none"> Offender convicted of mere possession and there was no evidence of distribution of child sexual abuse material. 	<p>Level 14 fine/10 years imprisonment.</p>	<p>Level 7 fine. 6 years imprisonment</p>
<p>C/S 165(B) (Exposing children to pornography).</p>	<ul style="list-style-type: none"> Evidence that the offender's intention was to have sexual relations with the child, whether or not the actual sexual relations occurred. 	<ul style="list-style-type: none"> The unlawful conduct did not go beyond a mere proposition to meet the child victim. 	<p>Level 14 fine/5 years.</p>	<p>Level 10 fine. 3 years imprisonment.</p>
		<ul style="list-style-type: none"> No evidence that the offender's intention was to have sexual relations with the child. 		<p>Level 8 fine.</p>

Criminal Procedure (Sentencing Guidelines) Regulations, 2023

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
C/S 167 (Unauthorised use or possession of credit or debit card).	<ul style="list-style-type: none"> Evidence of involvement of offender in the manufacture and/or use of the card. 		Level 8 fine/3 years imprisonment.	18 months imprisonment.
C/S 168 (Unauthorised use of password or pin-number).	<ul style="list-style-type: none"> Unauthorised use of password or pin-number resulted in actual prejudice. 	<ul style="list-style-type: none"> Offender was convicted of mere possession & there was no evidence of involvement in manufacture or intention to use the card. 	Level 8 fine/3 years imprisonment.	Level 4 fine. 18 months imprisonment
C/S 170 (Bribery).	<ul style="list-style-type: none"> Gift, consideration, inducement, or reward was a considerable value. Favour or disfavor shown was considerable. Favour or disfavor shown caused considerable loss or harm. Principal was the State, a law enforcement agency, a local authority or a statutory body. 	<ul style="list-style-type: none"> Unauthorised use of password or pin-number did not result in actual prejudice. 	Level 14 fine/20 years imprisonment.	Level 4 fine. 15 years imprisonment.
		<ul style="list-style-type: none"> Gift, consideration, or reward was of an insignificant value. Gift, consideration, or reward did not result in any favour or disfavor. 		6 months' imprisonment.

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
C/S 171 (Corruptly using a false document).	<ul style="list-style-type: none"> Undermined the proper function of public/ private service and administration. Significant financial or pecuniary gain by offender. 	<ul style="list-style-type: none"> Limited gain to offender. 	Level 14 fine/20 years imprisonment.	3 years imprisonment.
C/S 172 (Corruptly concealing a transaction from principal).	<ul style="list-style-type: none"> Same aggravating factors as in section 171 above. 		Level 14 fine/20 years imprisonment.	Level 6 fine. 3 years imprisonment.
C/S 173 (Corruptly concealing interest in a transaction).	<ul style="list-style-type: none"> Same aggravating factors as in section 171 above. 	<ul style="list-style-type: none"> Same mitigating factors as in section 171 above. 	Level 14 fine/20 years imprisonment.	Level 6 fine. 3 years imprisonment.
C/S 174 (Criminal abuse of duty as public officer).	<ul style="list-style-type: none"> Undermined the proper function of public service and administration. Significant financial or pecuniary gain by offender. 	<ul style="list-style-type: none"> Same mitigating factors as in section 171 above. 	Level 13 fine/15 years imprisonment.	Level 6 fine. 2 years imprisonment.
		<ul style="list-style-type: none"> Limited gain to offender. 		Level 5 fine.

Criminal Procedure (Sentencing Guidelines) Regulations, 2023

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
C/S 176 (Assaulting or Resisting a Peace Officer).	<ul style="list-style-type: none"> Victim sustained injuries. Victim suffered permanent injury or disfigurement. Use or threat to use weapon. 	<ul style="list-style-type: none"> No injuries sustained. No weapon used. 	Level 12 fine/10 years imprisonment.	2 years imprisonment.
C/S 177 (Undermining of Police Authority).			Level 7 fine /2 years imprisonment.	Level 4 fine.
C/S 178 (Obstructing Public Official).			Level 5 fine/6 months imprisonment.	Level 4 fine.
C/S 179 (Impersonating a Police Officer, Peace Officer or Public Official).	<ul style="list-style-type: none"> Offender impersonated a police or peace officer. Impersonation was to obtain an advantage benefit for the offender. Advantage obtained was of high value. Offence facilitated the commission of another offence. 		Level 10 fine/5 years imprisonment.	2 years imprisonment.
		<ul style="list-style-type: none"> Official impersonated was not a police or peace officer. Advantage secured was for the benefit of another. Advantage obtained was of low or insignificant value. 		Level 4 fine.

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
C/S 180 (Deliberately supplying false information to a Public Authority).			Level 5 fine/6 months imprisonment.	Level 4 fine.
C/S 182 (Contempt Of Court).			Level 6 fine/1 year imprisonment.	Level 4 fine.
C/S 183 (Perjury).	<ul style="list-style-type: none"> False statement acted upon to the prejudice of third parties. Offender was in a position of authority or influence. Offender obtained a monetary favour or advantage from the commission of offence. 		Level 10 fine/5 years imprisonment.	1 year imprisonment.
		<ul style="list-style-type: none"> False statement voluntarily withdrawn or corrected before it was acted upon. Insignificant effect of false statement on proceedings. 		Level 4 fine.
C/S 184 (Defeating or obstructing the course of justice).	<ul style="list-style-type: none"> Conduct involved the use or threat of violence. Offender abused a position of authority or influence. 		Level 10 fine/5 years imprisonment.	2 years imprisonment.
			Level 7 fine/2years imprisonment.	1 year imprisonment.
			Level 6 fine/1-year imprisonment.	6 months imprisonment.
		<ul style="list-style-type: none"> No threats or violence was involved. 		Level 4 fine.

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
C/S 185 (Escaping from lawful custody).	<ul style="list-style-type: none"> • Use of weapon • Use of violence or threat • Injury to another in the course of committing the offence. • Offender coerced others to escape. • Offender used someone as human shield while escaping. 		Level 11 fine/10 years imprisonment.	3 years imprisonment.
		<ul style="list-style-type: none"> • Offender took advantage of lax security measures. • Accused took advantage of opportunity to escape created by others. 	Level 10 fine/7 years imprisonment.	Level 5 fine .

OFFENCES CREATED BY OTHER ENACTMENTS

PARKS & WILDLIFE ACT [CHAPTER 20:14]

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
C/S 45 (1)(b) (Unlawful possession or sale of live specially protected animal).	<ul style="list-style-type: none"> • Animal obtained from a national park, sanctuary, safari area or recreational park. • Where animal was kept in circumstances of cruelty (Refer to s 3 of the Prevention of Cruelty to Animals Act [Chapter 19:09]). 			1 year imprisonment.

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
C/S 45(1) (Control of hunting of specially protected animals and possession or sale of specially protected animals and products they offer)			Level 8 fine/3 years imprisonment	1 year imprisonment.
C/S 47(1) (Failure to surrender trophies of specially protected animals to appropriate authorities).	<ul style="list-style-type: none"> • Trophy obtained from a national park, sanctuary, safari area or recreational park. • Offender attempted to sell or profit from State trophy. 	<ul style="list-style-type: none"> • State trophy obtained from already dead animal. • Evidence of non-involvement in killing of animal. 	Level 5 fine/6 months imprisonment.	3 months imprisonment.
C/S 50(1) Or s 52(1) & (2) (Unlawful picking, selling or purchase of specially protected indigenous plants).	<ul style="list-style-type: none"> • The number of plants • Offence committed within protected areas like national parks, botanical gardens etc. • Motivated by personal gain. 		Level 6 fine/1 year imprisonment.	4 months imprisonment (Where appropriate, in addition an order of payment of a specified amount for the plant concerned in terms of s 104(a) or (b) of the Act).

Criminal Procedure (Sentencing Guidelines) Regulations, 2023

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
C/S 55(1) (Unlawful picking or selling of indigenous plants.)	<ul style="list-style-type: none"> • Plant obtained from a botanical reserve or botanical garden. • Substantial number of plants involved. • Motivated purely by economic gain. 	<ul style="list-style-type: none"> • Used for personal medicinal purposes. 	Level 5 fine/6 months imprisonment.	Level 4 fine. 3 months imprisonment.
		<ul style="list-style-type: none"> • Used for personal medicinal purposes. 		Level 4 fine (Where appropriate, in addition, order payment of specified amount for plant concerned per s 104(a) or (b) of the Act)
C/S 59(2) & (3) (Unlawful hunting or possession, removal or selling of animals).	<ul style="list-style-type: none"> • Offender used a snare. • Animal was hunted or removed from a national park, sanctuary, safari area or recreational park. • More than one animal hunted. • Offender used a gun. 		Level 6 fine/12 months imprisonment.	6 months imprisonment.
		<ul style="list-style-type: none"> • Offender used means other than a snare. • Hunted on land not designated as a national park, sanctuary, safari area or recreational park. 		Level 4 fine. (Where appropriate, in addition an order for the payment of a specified amount for the animal concerned in terms of s 104(a) or (b) of the Act).

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
C/S 85(1) (Unlawful fishing without a permit).	<ul style="list-style-type: none"> Offender used methods prohibited by s 87 of the Act. Fish caught from waters within precinct of a national park, sanctuary, safari area or recreational park. Substantial quantity of fish involved. 		Level 5 fine/6 months imprisonment.	3 months imprisonment. (Where appropriate, in addition, an order of payment of a specified amount for the fish concerned in terms of s 104(a) or (b) of the Act).
C/S 87(1) (Unlawful fishing using prohibited methods).	<ul style="list-style-type: none"> Offender used prohibited fishing methods in waters within precinct of a national park, sanctuary, safari area or recreational park. Substantial damage or injury was caused to the fish habitat. 		Level 6 fine/12 months imprisonment.	4 months imprisonment. (Where appropriate, in addition, an order of payment of a specified amount for the fish concerned in terms of s 104(a) or (b) of the Act).
C/S 88(1) (Unlawful introduction into waters of fish species, fish ova or aquatic plants which are not native to such waters).	<ul style="list-style-type: none"> Offender imported non-native fish species, ova or aquatic plants in waters within the precincts of a national park, sanctuary, safari area or recreational park. Substantial damage or injury was caused to the fish habitat. 		Level 6 fine/1 year imprisonment.	4 months imprisonment. (Where appropriate, in addition, an order of payment of a specified amount for the fish concerned in terms of s 104(a) or (b) of the Act).

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
C/S 90(1) (Unlawful catching and selling of fish).	<ul style="list-style-type: none"> Quantity of fish involved. Offender used a boat and fishing nets. 		Level 7 fine/2 years imprisonment.	1 year imprisonment. Level 5 fine.

ELECTRICITY ACT [CHAPTER 13:19]

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
C/S 60A (1)(a) or (b) (Unlawful abstraction or diversion of electric current).	<ul style="list-style-type: none"> Illegal connection or installation caused power outage. Illegal connection or installation caused damage to electricity generating, transmitting apparatus. 		Level 14 fine/5 years imprisonment.	1 year imprisonment.
C/S 60 C(2) (Failure to produce on demand special police clearance certificate or custom documentation).	<ul style="list-style-type: none"> Offender attempted to evade or obstruct the police or inspector. 		Level 14 fine/5 years imprisonment.	Level 7 Fine. 1 year imprisonment. Level 7 fine.

MARRIAGES ACT [CHAPTER 5:17]			
OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	PRESUMPTIVE PENALTY
C/S 3 (Child Marriage Offences).	<ul style="list-style-type: none"> Offender who promoted, coerced, aided or abetted the child is a parent or a person in <i>loco parentis</i> to the child concerned. Substantial age difference. 		<p style="text-align: center;">STATUTORY PENALTY</p> <p>Level 10 fine/5 years imprisonment.</p>
			<p style="text-align: center;">STATUTORY PENALTY</p> <p>Level 10 fine/5 years imprisonment.</p>

CUSTOMS AND EXCISE ACT [CHAPTER 23:02]

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
C/S 182 (Smuggling).	<ul style="list-style-type: none"> Premeditation. Substantial value of goods involved. Goods were meant for resale or some other business use. Goods fell under the category of prohibited or restricted goods as defined in ss 47 & 48 of the Act. 		<p style="text-align: center;">STATUTORY PENALTY</p> <p>Level 14 fine/5 years imprisonment.</p>	<p style="text-align: center;">PRESUMPTIVE PENALTY</p> <p>2 years imprisonment.</p>
		<ul style="list-style-type: none"> Goods were meant for personal use or private family use. Value of goods involved was not substantial. 		<p style="text-align: center;">PRESUMPTIVE PENALTY</p> <p>Level 6 fine or treble the duty-paid value whichever is the greater.</p>

Criminal Procedure (Sentencing Guidelines) Regulations, 2023

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
C/S 183 (Importation of prohibited or restricted goods).	<ul style="list-style-type: none"> • Premeditation. • Substantial value of goods involved. • Goods were meant for resale or some other business use. 	<ul style="list-style-type: none"> • Goods were meant for personal or private family use. • Value of goods involved was not substantial. 	Level 12 fine/5 years imprisonment.	10 months imprisonment.
		<ul style="list-style-type: none"> • Goods were meant for personal or private family use. • Value of goods involved was not substantial. 		Fine (Level 5) or treble the duty-paid value whichever is the greater.

DOMESTIC VIOLENCE ACT [CHAPTER 5:16]

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
C/S 3 arw s 4 (Domestic Violence).	<ul style="list-style-type: none"> • Persistent pattern of behavior. • Victim was pregnant. • Offender abused trust. • Offender took steps to prevent the victim from seeking assistance. • Offender forced victim to leave home or denied victim access to facilities immediately before, during or after the commission of the offence. • Victim suffered severe physical or emotional injury as a result of the offence. 		Level 14 fine/10 years imprisonment.	5 years imprisonment.
		<ul style="list-style-type: none"> • Offender voluntarily undergoing counselling by a registered practitioner. 		Level 7 fine.

ENVIRONMENTAL MANAGEMENT ACT [CHAPTER 20:27]

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
<p>C/S 57 Discharging effluent/waste/ pollutants into the aquatic environment</p> <p>C/S 30 (1) of S.I 6 OF 2007- Disposing waste into a public stream without license</p>	<ul style="list-style-type: none"> Discharged pollutant caused substantial negative impacts to the aquatic environment. Discharged pollutant had a widespread, pervasive or long-lasting noxious effect on human, animal and plant health. The actual or projected cost of restoration of harm resulting from the discharge of the pollutant is substantial. Discharge of pollutant interfered with, prevented, or undermined other lawful activities to a significant degree 		Level 14 fine/5 years imprisonment.	2 years imprisonment.
		<ul style="list-style-type: none"> Minimal or localised impact caused to the aquatic environment. Discharged pollutant had minimal effects on human, animal and plant health. 		Level 5 fine.
<p>C/S 68(1) Operating a transport conveyance in a manner that causes air pollution</p> <p>C/S 70 (a) Disposing wastes in contravention of standards/regulations.</p> <p>b). Transporting wastes not in accordance with a valid license issued</p>	<ul style="list-style-type: none"> Second or subsequent offence 		Level 6 fine/6 months imprisonment.	2 months imprisonment.
	<ul style="list-style-type: none"> Same aggravating factors as in section 57 above. 	<ul style="list-style-type: none"> Same mitigating factors as in section 57 above. 	Level 14/5 years imprisonment.	Level 3 fine. 2 years imprisonment.

Criminal Procedure (Sentencing Guidelines) Regulations, 2023

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
C/S 77 (a) EM ACT- Use toxic substance/changed the composition of a pesticide/detached the labelling on a pesticide or toxic substance.	<ul style="list-style-type: none"> Same aggravating factors as in section 57 above. 		Level 12 fine/10 years imprisonment.	3 years imprisonment
(b) Sold/delivered for importation or received pesticide/toxic substance that he knows is not registered.		<ul style="list-style-type: none"> Same mitigating factors as in section 57 above. 		Level 7 fine
C/S 83 Discarded/ dumped or left litter in an undesignated place.	<ul style="list-style-type: none"> Litter consisted of harmful chemicals or substances likely to cause a danger to persons or environment on a significant scale Offence was committed on a scale that exhibited willful or reckless disregard of the health of persons. 		Level 3 fine.	Level 3 fine.
C/S 113 (2) EM Act- Offences in relation to protection of wetlands.	<ul style="list-style-type: none"> Conduct caused substantial damage to the wetland affecting the wellbeing of adjacent communities with respect to the interruption of the quantity or quality of the water supplied, Damage to the wetland is of such an extent that adjacent communities may be seriously affected by flooding and soil erosion in the near future 		Level 8 fine/2 years imprisonment.	1 year imprisonment
		Damage resulting from the actus reus is of a limited scale and can be remediated at reasonable cost		Level 5 fine.

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
C/S119(1)(a) and (b)- Failure to clear or cause to be cleared invasive alien species growing or occurring on the land.	<ul style="list-style-type: none"> Conduct caused substantial harm to the wellbeing of affected communities 		Level 8 fine/1 year imprisonment.	6 months imprisonment.
a), C/S 123(1)(a) and (b)- Unlawful placement of invasive alien species in watercourse or road.	<ul style="list-style-type: none"> Substantial negative impact caused to watercourse or road. Conduct caused substantial damage to the watercourse or road affecting the wellbeing of adjacent communities with respect to the interruption of the quantity or quality of the water supplied, or the fitness of the road to be used by affected communities 	Damage resulting from the actus reus is of a limited scale and can be remediated at reasonable cost	Level 4 fine /6 months.	3 months imprisonment.
			Level 8 fine/1 year imprisonment.	6 months imprisonment.
		<ul style="list-style-type: none"> Minimal damage caused to watercourse or road. 	Level 4 fine/6 months.	3 months imprisonment.

Criminal Procedure (Sentencing Guidelines) Regulations, 2023

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
ENVIRONMENTAL MANAGEMENT (EFFLUENT AND SOLID WASTE DISPOSAL) REGULATIONS, 2007 (SI 6 OF 2007)				
<p>21 (2)- Failure to put sufficient bins in a public passenger conveyance</p> <p>23 (1) – Discarding or dumping litter by operator in undersigned place.</p> <p>26 (1), a.r.w 3- Unlawful disposal of agricultural waste.</p> <p>27 (1), a.r.w (2)- Failure to report an accidental waste spillage to EMA and ZRP offices within 48 hours</p>	<ul style="list-style-type: none"> Actual or imminent harm to the health of persons occurred or is threatened by the conduct charged The offence persisted over a significant period of time. 		<p>Level 14 fine/1 year imprisonment.</p>	<p>6 months imprisonment.</p>
<p>23 (1) – Discarding or dumping litter by any person in undersigned place.</p>	<ul style="list-style-type: none"> Actual or imminent harm to the health of persons occurred or is threatened by the conduct charged The offence persisted over a significant period of time 	<ul style="list-style-type: none"> Minor or localised adverse effect or damage to environment. 		<p>Level 7 fine.</p>
ENVIRONMENTAL MANAGEMENT (ENVIRONMENTAL IMPACT ASSESSMENT AND ECOSYSTEM PROTECTION) REGULATIONS, 2007 (SI 7 OF 2007)				
<p>C/S3 a.- Excavate, remove, or possess clay or sand deposit for commercial purpose without a license issued by the Agency</p>	<ul style="list-style-type: none"> The offence persisted over a significant period of time Substantial quantity of Clay/sand excavated. 	<ul style="list-style-type: none"> Minimal quantities of sand or clay excavated. 	<p>Level 14 fine/5 years imprisonment</p>	<p>2 years imprisonment.</p> <p>Level 7 fine.</p>

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
C/S 15 Deliberately cause fire that he or she failed to extinguish resulting in the damage to the environment/property or life	<ul style="list-style-type: none"> • Fire caused extensive damage to the environment. • Fire destroyed property and was within such proximity to a human settlement or manufacturing plant that danger to human life occurred or was threatened • Fire was within or in the immediate vicinity of a protected area such as a botanical garden, national park or recreational park. 	<ul style="list-style-type: none"> • Fire was started without malicious intent and there was little or no damage caused by the fire 	Level 8 fine/1 year imprisonment.	6 months imprisonment
C/S 18 - With or without authority light/assisted in lighting or use/ added fuel to a fire which spreads/ causes injury	<ul style="list-style-type: none"> • Same aggravating factors as in section 15 above. 		Level 14 fine/1-year imprisonment	6 months imprisonment
C/S 19 - Possessed/used/ caused to be used a sleigh on land.		<ul style="list-style-type: none"> • Same mitigating factors as in section 15 above. 		Level 7 fine.
C/S 20 Unlawful interference with wetlands/banks of a stream and other certain lands.	<ul style="list-style-type: none"> • Same aggravating factors as in section 113(2) of EM Act above 		Level 5 fine/4 months imprisonment. Level 10 fine/6 months.	2 months imprisonment. 4 months imprisonment.
		<ul style="list-style-type: none"> • Minimal or localised impact caused to the wetlands, stream banks or other certain lands. 		Level 6 fine.

Criminal Procedure (Sentencing Guidelines) Regulations, 2023

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
ENVIRONMENTAL MANAGEMENT (ACCESS TO GENETIC RESOURCES AND INDIGENOUS GENETIC RESOURCE-BASED KNOWLEDGE) REGULATIONS, 2009 (SI 61 OF 2009)				
C/S 20 Unlawful harvest, gather, collect specimens etc of traditional medicines.	<ul style="list-style-type: none"> The number or rarity (or both) of the plants illegally gathered Offence committed within protected areas like national parks, botanical gardens etc. The act (whether or not either of the 2 bullets above apply) was motivated by personal or commercial gain 		Level 14 fine/1 year imprisonment.	6 months imprisonment
		<ul style="list-style-type: none"> Act was engaged in solely or primarily for personal medicinal purposes, unmotivated by financial gain 		Level 7 fine
ENVIRONMENTAL MANAGEMENT (ATMOSPHERIC POLLUTION CONTROL) REGULATIONS, 2009 (SI 72 OF 2009)				
C/S 14 Unlawful installation of air-polluting appliance			Level 6 fine/6 months imprisonment.	Level 4 fine.

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
<p>C/S 17 Failure to give notice of an accidental emission within 12 hours</p> <p>C/S 21 Hindering or Obstructing an Inspector of the Agency.</p>	<ul style="list-style-type: none"> Offender undertook deliberate efforts to conceal the accidental emission. Significant secondary pollution resulted from delay or efforts to conceal. Major costs incurred or likely to be through clean-up, or restoration. Offence committed with intention, or recklessness or serious disregard of the law or prior warnings. 	<ul style="list-style-type: none"> Delay in giving notice caused by factors not foreseeable. Offender voluntarily attended to reclamation, and remedying damage cases. 	<p>Level 14 fine/1 year imprisonment.</p>	<p>6 months imprisonment.</p>
ENVIRONMENTAL MANAGEMENT (PLASTIC PACKAGING AND PLASTIC BOTTLES) REGULATIONS, 2010 (SI 98 OF 2010)				
<p>C/S 3 -Manufacturing/using within Zimbabwe, plastic packaging with a wall thickness of less than thirty micrometers.</p>			<p>Level 14 fine/1 year imprisonment.</p>	<p>Level 7 fine.</p>

Criminal Procedure (Sentencing Guidelines) Regulations, 2023

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
ENVIRONMENTAL MANAGEMENT (CONTROL OVER HAZARDOUS SUBSTANCES) (GENERAL) REGULATIONS, 2018(SI 268 OF 2018)				
<p>3(1) Failure to label packaging and containers of hazardous waste/waste oils.</p> <p>4(1) Discharge of a hazardous substance/chemical into water contravening control standards.</p> <p>6(1) Failure to take all necessary precautions in the handling of hazardous substance.</p> <p>10(1) Transported hazardous substances without a license issued by the agency</p> <p>11(6) Failure to display a hazardous substance license on a visible location on the conveyance</p> <p>15(1) -Failure to designate site/s for hazardous waste</p> <p>(19)(2) Transported Hazardous substances listed in the fourth Schedule in transit through Zimbabwe without a license</p> <p>20(1) Imported from (specify country) any other state of hazardous waste or waste oils without a license</p>	<ul style="list-style-type: none"> • Same aggravating factors as in section 57 above. 		<p>Level 14 fine /1 year imprisonment.</p>	<p>6 months imprisonment.</p>
		<ul style="list-style-type: none"> • Same mitigating factors as in section 57 above. 		<p>Level 5 fine.</p>

OFFENCE	AGGRAVATING FACTORS	MITIGATING FACTORS	STATUTORY PENALTY	PRESUMPTIVE PENALTY
ENVIRONMENTAL MANAGEMENT (CONTROL OF ALLUVIAL MINING) (AMENDMENT) REGULATIONS, 2021 (SI 104 OF 2021)				
C/S 3- Unlawful alluvial mining activities.	<ul style="list-style-type: none"> Caused substantial environmental degradation negatively impacting adjacent communities 		Level 14 fine/1 year imprisonment.	6 months imprisonment.
		<ul style="list-style-type: none"> Caused minimal environmental damage with minimal impact on adjacent communities 		Level 7 fine.

