

SCHEDULE 1

Article 2

SECTIONS 134 AND 135 OF THE CRIMINAL JUSTICE ACT 1988 AS MODIFIED

134.—(1) A public official or person acting in an official capacity, whatever his nationality, commits the offence of torture if in the Territory or elsewhere he intentionally inflicts severe pain or suffering on another in the performance or purported performance of his official duties.

(2) A person not falling within subsection (1) above commits the offence of torture, whatever his nationality, if—

(a) in the Territory or elsewhere he intentionally inflicts severe pain or suffering on another at the instigation or with the consent or acquiescence—

(i) of a public official; or

(ii) of a person acting in an official capacity; and

(b) the official or other person is performing or purporting to perform his official duties when he instigates the commission of the offence or consents to or acquiesces in it.

(3) It is immaterial whether the pain or suffering is physical or mental and whether it is caused by an act or an omission.

(4) It shall be a defence for a person charged with an offence under this section in respect of any conduct of his to prove that he had lawful authority, justification or excuse for that conduct.

(5) For the purposes of this section “lawful authority, justification or excuse” means—

(a) in relation to pain or suffering inflicted in the Territory, lawful authority, justification or excuse under the law of the Territory;

(b) in relation to pain or suffering inflicted outside the Territory—

(i) if it was inflicted by an official of the Territory acting under the law of the Territory or by a person acting in an official capacity under that law, lawful authority, justification or excuse under that law;

(ii) in any other case, lawful authority, justification or excuse under the law of the place where it was inflicted.

(6) A person who commits the offence of torture shall be liable on conviction on indictment to imprisonment for life.

135.—(1) Proceedings for an offence under section 134 above shall not be begun in the Territory except by, or with the consent of, the Attorney-General of the Territory.

(2) In this section the expression “Attorney-General” includes the Solicitor-General, and if neither of such officers exists, the expression means that officer whose functions include the general control of public prosecutions.