



# The Penal Code

## Part I. General provisions

### Chapter 1. Application of the criminal legislation

#### **Section 1. *Application of the general provisions***

The provisions of Part I apply to all criminal acts unless otherwise provided in or pursuant to legislation or implied by interpretation.

#### **Section 2. *Limitations under international law***

The criminal legislation applies subject to the limitations that follow from agreements with foreign states or otherwise by international law.

#### **Section 3. *Temporal application of the criminal legislation***

The criminal legislation at the time of the act applies. However, the legislation at the time of the decision applies when this results in a more favourable outcome for the person charged and the legislative amendment is due to a change in view as to which acts should be punishable or as to the use of criminal sanctions.

When a continuous criminal offence continues after a legislative amendment imposing a stricter penalty has entered into force, the legislation in force at the respective times applies to the respective parts of the offence.

If a person has been charged, see section 82 of the Criminal Procedure Act, no account is taken of the fact that prosecution would have been time-barred under a more recent statute, or that it is no longer unconditional.

If the execution of a sanction has begun, no account is taken of the fact that the execution would have been time-barred under a more recent statute.

In the event of conviction after the reopening of a case, the same legislation applies as in the original decision.

#### **Section 4. *Application of the criminal legislation to acts committed in Norway and in areas under Norwegian jurisdiction, etc.***

The criminal legislation applies to acts committed in Norway, including in Svalbard, on Jan Mayen and in the Norwegian dependencies, see the Act of 27 February 1930 No. 3.

The criminal legislation also applies to acts committed

- a) on installations on the Norwegian continental shelf for exploration for or exploitation or storage of submarine natural resources and on pipelines and other fixed transport facilities connected to such installations, including ones located elsewhere than on the Norwegian continental shelf,
- b) in the area of jurisdiction established pursuant to the Act of 17 December 1976 No. 91

- relating to the Economic Zone of Norway, in the case of acts that harm interests that Norwegian jurisdiction is intended to protect, and
- c) on Norwegian vessels, including aircraft, and drilling platforms or similar movable installations. If a vessel or installation is in or above the territory of another state, the criminal legislation applies only to an act committed by a person on board the vessel or installation.

### **Section 5. *Application of the criminal legislation to acts committed abroad***

Outside the area of application pursuant to section 4, the criminal legislation also applies to acts committed

- a) by a Norwegian national,
- b) by a person domiciled in Norway, or
- c) on behalf of an enterprise registered in Norway,

when the acts:

1. are also punishable under the law of the country in which they are committed,
2. are deemed to constitute a war crime, genocide or a crime against humanity,
3. are deemed to constitute a breach of the laws of war,
4. are deemed to constitute child marriage or forced marriage,
5. are deemed to constitute genital mutilation,
6. are directed at the Norwegian State or Norwegian state authority, or fall within the scope of section 120 a, or sections 127 cf. 120 a,
7. are committed outside the area of sovereignty of any state and are punishable by imprisonment,
8. are deemed to constitute removal from care,
9. fall within the scope of sections 257, 291-296, 299-306 or sections 309-316,
10. are deemed to constitute terrorist or terrorism-related acts pursuant to chapter 18 of the Penal Code or fall within the scope of sections 145 or 146, or
11. are deemed to constitute incitement to a criminal act pursuant to section 183 of the Penal Code or constitute hate speech pursuant to section 185 of the Penal Code.

The first paragraph applies correspondingly to acts committed

- a) by a person who after the time of the act has become a Norwegian national or has become domiciled in Norway,
- b) by a person who is, or who subsequent to the act has become, a national of or domiciled in another Nordic country and who is present in Norway, or
- c) on behalf of a foreign enterprise that after the time of the act has transferred its entire operation to an enterprise registered in Norway.

Numbers 1, 2, 3, 6, 7, 8, 10 with the exception of section 145, and 11 of the first paragraph apply correspondingly to acts committed by persons other than those covered by the first and second paragraphs when the person is present in Norway and the act carries a maximum penalty of imprisonment for a term of more than one year.

In the case of acts specified in no. 2 of the first paragraph, the second and third paragraphs apply only if the act, pursuant to international law, is deemed to constitute genocide, a crime against humanity or a war crime.

The criminal legislation also applies to acts committed abroad by persons other than those covered by the first to fourth paragraphs if the act carries a maximum penalty of imprisonment for a term of six years or more and is directed at someone who is a Norwegian national or domiciled in Norway.

In the event of criminal prosecution pursuant to this section, the penalty may not exceed the maximum statutory penalty for a corresponding act in the country in which it has been committed.

Prosecution pursuant to this section shall only be instituted when in the public interest.

### **Section 6. *Special grounds for prosecution under international law***

Outside the area of application pursuant to sections 4 and 5, the criminal legislation also applies to acts that Norway has a right or an obligation to prosecute pursuant to agreements with foreign states or otherwise pursuant to international law.

Section 5 seventh paragraph, applies correspondingly.

### **Section 7. *Acts deemed to have been committed in several places***

When the punishability of an act is contingent on or affected by an actual or intended effect, the act is also deemed to have been committed at the place where the effect has occurred or was intended to be caused.

### **Section 8. *Power to prosecute offences which have been adjudicated abroad***

When a final judgment has been passed abroad which falls within the scope of

- a) the Act of 25 March 1977 No. 22 relating to the transfer of prosecutions from or to other European countries,
  - b) the Act of 20 July 1991 No. 67 relating to the transfer of convicted persons, or
  - c) an international agreement forming part of the Schengen cooperation,
- no criminal proceedings may be instituted or sentence passed in Norway for the same criminal offence if

1. the person in question was acquitted or found guilty without a sanction being imposed, or
2. the sanction imposed has been fully executed or is in the process of being executed or has been waived pursuant to the rules of the adjudicating country.

If the prosecution in the adjudicating country was not instituted at the request of Norwegian authorities, prosecution may be undertaken in Norway for cases specified in a) and b) of the first paragraph when

- a) the act was committed in an area specified in section 4, see also section 7,
- b) the offender was domiciled in Norway or was a Norwegian national at the time of the act and prosecution is in the public interest,
- c) the act was directed against a person holding public office in Norway, or against a public institution or anything else of a public nature in Norway, or the offender himself/herself held public office in Norway, or
- d) Norway has a right or obligation to prosecute under international law.

If the prosecution in the adjudicating country was not instituted at the request of Norwegian authorities, prosecution may be undertaken in Norway for cases specified in c) of the first paragraph when

- a) the act was wholly or partly committed in Norway. If the act was only partly committed in Norway, however, the exception does not apply if the act was partly committed in the territory of the party to the convention that has passed judgment,
- b) the act is punishable in Norway as a war crime, genocide, an offence against the autonomy and security of the State, an offence against the constitution and the political system, or as hijacking, an act of sabotage against infrastructure, an aggravated drug offence, unlawful involvement with plutonium and uranium, or aggravated arson or any other particularly dangerous act of destruction, or
- c) the act was committed by a Norwegian official and was a breach of his/her official duties.

## Chapter 2. Statutory definitions, etc.

### Section 9. *Next-of-kin*

«Next-of-kin» means

- a) a spouse,
- b) relatives in direct line and siblings, and their spouses,
- c) relatives of a spouse in direct line of ascent or descent and siblings, and their spouses,
- d) step-siblings and their spouses,
- e) foster parents and their parents, foster children and foster siblings, and
- f) a fiancé/fiancée.

The provisions regarding spouses also apply to divorced spouses. However, relatives by marriage are only deemed to be next-of-kin in respect of matters that took place before the marriage was dissolved. The provision in the second sentence regarding relatives by marriage also applies to fiancés/fiancées after the engagement has been broken off.

An in-law relationship is deemed to continue after the marriage that established it has been terminated by death.

Registered partnerships and other cases where two persons live together permanently in a marriage-like relationship are deemed equivalent to marriage.

### Section 10. *Public place and public act*

«Public place» means a place intended for general traffic or frequented by the public.

An act is public when it is committed in the presence of a sizable number of persons or when it could easily have been observed and has been observed from a public place. If the act consists of making a statement, it is also public if the statement is made in a way that makes it likely to reach a sizable number of persons.

### Section 11. *Considerable harm to body or health*

«Considerable harm to body or health» means the loss or substantial impairment of a sense, an important organ or an important body part, serious disfigurement, deadly or protracted disease, or serious mental harm.

It is also «considerable harm» when a foetus dies or is injured as a result of a criminal act.

### Section 12. *Object*

«Object» also means electricity and other types of power.

### Section 13. *Calculation of statutory time limits*

Section 148, second paragraph, of the Courts of Justice Act and section 149, first paragraph, apply when statutory time limits are calculated.

## Chapter 3. Basic conditions for criminal liability

### Section 14. *Legal authority requirement*

Criminal sanctions, see sections 29 and 30, may only be imposed if authorised by law.

### **Section 15. *Contribution***

A penal provision also applies to any person who contributes to the violation, unless otherwise provided.

### **Section 16. *Attempt***

Any person who intends to commit an offence which may be punishable by imprisonment for a term of one year or more, and performs an action leading directly to its commission, shall be penalised for attempt, unless otherwise provided.

Any person who voluntarily desists from committing the offence or prevents its commission, shall nevertheless not be penalised for attempt.

### **Section 17. *Necessity***

An act which would otherwise be punishable, is lawful when

- a) it is committed to save life, health, property or other interests from a risk of harm which cannot be averted in another reasonable manner, and
- b) this risk of harm is far greater than the risk of harm associated with the act.

### **Section 18. *Self-defence***

An act which would otherwise be punishable, is lawful when it

- a) is committed to avert an unlawful attack,
- b) does not exceed what is necessary, and
- c) does not clearly go beyond what is justifiable, taking into account the dangerousness of the attack, the type of interest the attack violates, and the culpability of the assailant.

The rule in the first paragraph applies correspondingly to any person who effects a lawful arrest or attempts to prevent a person from evading being remanded in custody or serving a custodial sentence.

The exercise of public authority may only be met with an act of self-defence if the exercise of authority is unlawful and the person who exercises it acts with intent or gross negligence.

### **Section 19. *Self-enforcement***

An act which would otherwise be criminal, is lawful when the entitled person acts to restore an unlawfully altered state, and it would be unreasonable to wait for assistance from the authorities. Force may be used against a person only when the rights violation is clear, and must not exceed what is justifiable.

### **Section 20. *Accountability***

To be liable for punishment the offender must be accountable at the time of the act. The offender is not accountable if, at the time of the act, he/she is

- a) under 15 years old,
- b) psychotic,

- c) severely mentally disabled, or
- d) suffers from severe impairment of consciousness.

Impairment of consciousness as a result of self-induced intoxication provides no exemption from punishment.

### **Section 21. *Culpability requirement***

The criminal legislation only applies to intentional offences unless otherwise provided.

### **Section 22. *Intent***

Intent exists when a person commits an act that fits the description of the offence in a penal provision

- a) deliberately,
- b) with the awareness that the act with certainty or most likely fits the description of the offence, or
- c) considers it possible that the act fits the description of the offence, and chooses to act even if that should be the case.

Intent exists even if the offender is unaware that the act is unlawful, see section 26.

### **Section 23. *Negligence***

Any person who acts in contravention of the requirement of due care in an area of life, and who may be held to blame in view of his or her personal circumstances, is negligent.

The negligence is gross if the act is highly reproachable and there are grounds for significant blame.

### **Section 24. *Unintended consequence***

An unintended consequence is part of the assessment of whether an offence is aggravated if the offender has acted negligently with regard to the consequence or failed to prevent the consequence according to ability after becoming aware that it might occur.

### **Section 25. *Factual ignorance***

All persons shall be judged based on their perception of the factual situation at the time of the act.

If the ignorance is negligent, the act is subject to a penalty when negligent violation of the law is punishable.

Ignorance as a result of self-induced intoxication is disregarded. In such cases the offender is judged as if he/she were sober.

### **Section 26. *Ignorance of the law***

Any person who at the time of the act is unaware that the act is unlawful due to ignorance of legal rules shall be penalised if the ignorance is negligent.

## Chapter 4. Enterprise penalties

### Section 27. *Penalties for enterprises*

When a penal provision is violated by a person who has acted on behalf of an enterprise, the enterprise is liable to punishment. This applies even if no single person meets the culpability or the accountability requirement, see section 20.

«Enterprise» means a company, co-operative society, association or other organisation, sole proprietorship, foundation, estate or public body.

The penalty is a fine. The enterprise may also be sentenced to lose the right to operate, or may be prohibited from operating in certain forms, see section 56, and be subject to confiscation, see chapter 13.

### Section 28. *Factors in determining whether a penalty shall be imposed on an enterprise*

In determining whether an enterprise shall be penalised pursuant to section 27, and in assessing the penalty, considerations shall include

- a) the preventive effect of the penalty,
- b) the severity of the offence, and whether a person acting on behalf of the enterprise has acted culpably,
- c) whether the enterprise could have prevented the offence by use of guidelines, instruction, training, checks or other measures,
- d) whether the offence has been committed in order to promote the interests of the enterprise,
- e) whether the enterprise has had or could have obtained any advantage by the offence,
- f) the financial capacity of the enterprise,
- g) whether other sanctions arising from the offence are imposed on the enterprise or a person who has acted on its behalf, including whether a penalty is imposed on any individual person, and
- h) whether agreements with foreign states prescribe the use of enterprise penalties.

## Chapter 5. Overview of the criminal sanctions

### Section 29. *The penalties*

The penalties are

- a) imprisonment, see chapter 6,
- b) preventive detention, see chapter 7,
- c) community sentences, see chapter 8,
- d) youth sentences, see chapter 8 a,
- e) fines, see chapter 9, and
- f) loss of rights, see chapter 10.

When, in assessing penalties, multiple criminal sanctions may be imposed, see the first paragraph and section 30, the totality of sanctions shall be reasonably proportionate to the offence.

### Section 30. *Other criminal sanctions*

Other criminal sanctions are

- a) deferment of sentencing, see section 60,
- b) waiver of sentencing, see section 61,
- c) committal to psychiatric care, see section 62,

- d) committal to care, see section 63,
- e) confiscation, see chapter 13,
- f) waiver of prosecution, see sections 69 and 70 of the Criminal Procedure Act,
- g) transfer of the case to the National Mediation Service for mediation, supervision or youth supervision, see section 71 a, first and second paragraphs, of the Criminal Procedure Act, and
- h) loss of the right to drive a motor vehicle, etc., see section 24 a second paragraph, section 33 no. 1 and 2, see also no. 6, and section 35, first paragraph, of the Road Traffic Act, and loss of the right to transport passengers for payment (professional licence), see section 37 f, second paragraph, of the Professional Transport Act.

## Chapter 6. Sentences of imprisonment

### Section 31. *Assessment of sentence of imprisonment*

A sentence of imprisonment may be imposed when the penal provision so provides.

The minimum penalty is 14 days unless otherwise provided in the act.

A sentence of imprisonment shall be for a fixed period of time. Sentences of imprisonment not exceeding 120 days shall be specified by the number of days. Sentences of imprisonment of more than four months shall be specified by the number of months and years.

### Section 32. *Combination of sentences of imprisonment with other penalties*

A sentence of imprisonment may be imposed in combination with

- a) a community sentence, subject to conditions as specified in section 51, a),
- b) a fine, see section 54, first paragraph, a), see also second paragraph, or
- c) the loss of rights, see section 59, a).

The power pursuant to the first paragraph to impose other penalties in combination with a sentence of imprisonment has no effect on provisions that give legal effect to the penalty limit.

### Section 33. *Limited use of sentences of imprisonment for young offenders*

Any person who was under 18 years of age at the time of the act may only be given an immediate sentence of imprisonment when required in view of the circumstances. The sentence of imprisonment may not exceed 15 years even if the penal provision authorises imposition of a stricter penalty.

### Section 34. *Suspension of execution (suspended imprisonment)*

When imposing a sentence of imprisonment, the court may decide that execution shall be suspended, in part or in full. If execution of part of the penalty is suspended (partly suspended, partly immediate imprisonment), the immediate part may not be set lower than 14 days.

The period of suspension shall ordinarily be two years. When the conditions for an increase of sentence in the case of a repeated offence are fulfilled, and in other special cases, a longer period of suspension may be set, but not one exceeding five years. The period of suspension shall run from the date on which final judgment is passed.



Suspension of execution is granted on the basic condition that the convicted person does not reoffend during the period of suspension. The court may also impose special conditions pursuant to sections 35 to 37. The person charged shall wherever possible be given an opportunity to comment on the special conditions before they are imposed.

### **Section 35. *Special conditions concerning compensation and redress***

As a special condition of suspension of execution, the court may order the convicted person to provide such compensation and redress as the aggrieved person or other injured person is entitled to and claims, and which the convicted person has the capacity to pay. If the loss has been made sufficiently clear, the court may on its own initiative also impose conditions regarding compensation.

### **Section 36. *Special conditions concerning a duty to report***

As a special condition of suspension of execution, the court may order the convicted person to report to the police at specific times. The period of the duty to report is one year unless the court decides otherwise. The duty to report runs from the day on which the judgment becomes legally enforceable. If the judgment concerns a criminal act to which the convicted person has confessed, the judgment may provide that the duty to report shall be implemented immediately.

### **Section 37. *Other special conditions***

- As a special condition of suspension of execution, the court may order the convicted person to
- a) comply with provisions concerning domicile, whereabouts, work or training,
  - b) avoid contact with specified persons,
  - c) submit to restrictions on control of income and assets, and meet financial obligations such as the payment of mandatory maintenance support,
  - d) abstain from using alcohol or other intoxicating or narcotic substances, and to submit to necessary drug testing,
  - e) undergo treatment to counteract abuse of alcohol or other intoxicating or narcotic substances, if necessary in an institution,
  - f) complete a drug-treatment programme under court control, see section 38, or an anti-intoxicated-driving programme for persons who have been convicted of violation of section 31 of the Road Traffic Act, see also section 22, first paragraph, and who have a problem with alcohol or another intoxicating or narcotic substance, provided that the convicted person has agreed to complete the programmes,
  - g) undergo psychiatric treatment, if necessary in an institution,
  - h) stay in a home or institution for up to one year,
  - i) participate in mediation by the National Mediation Service and comply with any agreements entered into during the mediation proceedings, or complete a period of supervision by the National Mediation Service of up to one year, provided that the case is suitable for this procedure and the aggrieved person, the convicted person and, if relevant, their guardians have consented,
  - j) complete a period of youth supervision by the National Mediation Service of up to one year, provided that the convicted person was between 15 and 18 years of age at the time of the act, that the case is suitable for this procedure and that the convicted person and, if relevant, the guardians of the convicted person have consented, or
  - k) meet other special conditions the court deems appropriate.

Section 461 of the Criminal Procedure Act applies correspondingly to special conditions specified in f).

When pursuant to d) a convicted person who was under 18 years of age at the time of the act is to submit to drug testing, section 12, third paragraph, of the Health Personnel Act applies.

### **Section 38. *Regulations on special conditions, etc.***

The King may issue regulations on the implementation of special conditions for suspension of execution. The King may issue detailed provisions on drug-treatment programmes under court control, including to whom they shall apply, their content and their implementation. The correctional services are responsible for supervising offenders who complete a drug-treatment programme under court control, who complete an anti-intoxicated-driving programme, or who are under 18 years of age and subject to an abstention condition pursuant to section 37, d). Section 56 of the Execution of Sentences Act applies correspondingly in the case of a condition requiring completion of a drug-treatment programme under court control, a condition requiring completion of an anti-intoxicated-driving programme or an abstention condition as specified in the third sentence.

### **Section 39. *Breach of a condition for suspension of execution, etc.***

When the circumstances of the convicted person so warrant, the district court may by ruling during the period of suspension set aside or amend special conditions that have been imposed and impose new special conditions. If the court deems it necessary, it may also extend the period of suspension, but not to more than five years in total. If completion of a drug-treatment programme or an anti-intoxicated-driving programme has been imposed as a condition, the correctional services may apply for such a ruling from the court. The convicted person shall insofar as possible be given an opportunity to comment on special conditions and extension of the period of suspension.

If the convicted person seriously or repeatedly breaches imposed special conditions, the district court may by judgment decide that the sentence shall be executed in full or in part, or impose a further period of suspension and new special conditions. The prosecuting authority's application for such a judgment must be made to the court within three months of the end of the period of suspension. If completion of a drug-treatment programme or an anti-intoxicated-driving programme has been imposed as a condition, the correctional services may apply for such a judgment from the court. The first paragraph, fourth sentence, applies correspondingly. Section 31, second paragraph, does not apply in the event of partial execution of sentence. The rules on notification in section 243 of the Criminal Procedure Act apply correspondingly to court hearings concerning reversal. The correctional services shall be notified pursuant to the same rules that apply with regard to the prosecuting authority.

If the convicted person commits a criminal act during the period of suspension and an indictment is issued or an application is made for summary trial on a plea of guilty within six months of the end of the period of suspension, the court may pass an aggregate sentence for both acts or a separate sentence in respect of the new act. If a separate sentence is passed in respect of the new act, the court may in the sentence also amend the earlier suspended sentence as provided in the first paragraph.

## **Chapter 7. Preventive detention**

### **Section 40. *Conditions for imposing preventive detention***

If a sentence of imprisonment is deemed insufficient to protect the life, health or freedom of other persons, preventive detention in an institution under the correctional services may be imposed when the offender is found guilty of having committed or attempted to commit a violent offence, sexual offence, unlawful imprisonment, arson or other offence that has infringed upon the

life, health or freedom of another person or put these legal interests at risk and the conditions in the second or third paragraphs are met. If the person charged is under 18 years of age, preventive detention may not be imposed unless altogether extraordinary circumstances apply.

If the offence was serious in nature, there must be an obvious risk that the offender will again commit a serious offence as specified in the first paragraph.

If the offence was less serious in nature

- a) the offender must previously have committed or attempted to commit a serious offence specified in the first paragraph,
- b) it must be assumed that there is a close connection between the offence committed earlier and the offence now committed, and
- c) the risk of commission of a further, serious offence specified in the first paragraph must be particularly obvious.

In assessing the risk of commission of a further offence pursuant to the second and third paragraph, emphasis shall be given to the committed offence by reference particularly to the offender's conduct and social and personal functional capacity. In cases specified in the second paragraph, particular emphasis shall be given to whether the offender has previously committed or attempted to commit a serious offence specified in the first paragraph.

Before a sentence of preventive detention is passed, a personal examination of the person charged shall be carried out. The court may decide that the person charged shall be subjected to a forensic psychiatric examination instead of or in addition to the personal examination.

#### **Section 41. *Combination of preventive detention with other penalties***

Preventive detention may be combined with the imposition of a loss of rights, see section 59, d).

#### **Section 42. *Lapse of imposed sentences of imprisonment and community sentences***

Previously imposed sentences of imprisonment and community sentences lapse when preventive detention is imposed.

#### **Section 43. *Duration of preventive detention***

In a sentence of preventive detention, a time frame is set that normally should not exceed 15 years, and that may not exceed 21 years. For offences with a penalty limit of imprisonment for a term of up to 30 years, the court may set a time frame not exceeding 30 years. If the convicted person was under 18 years of age at the time of the act, the time frame normally should not exceed 10 years, and may not exceed 15 years. On application of the prosecuting authority, the court may by judgment extend the set frame by up to five years at a time. An extension application must be filed with the district court no later than three months before the end of the period of preventive detention.

The court should also set a minimum term of preventive detention which may not exceed 10 years. In cases where the court sets a time frame exceeding 15 years, however, the court may set a minimum term not exceeding 14 years. In cases where the court sets a time frame exceeding 21 years, the court may set a minimum term not exceeding 20 years.

#### **Section 44. *Release on parole***

The convicted person may be released on parole before the end of the period of preventive detention. If a minimum term has been set, the convicted person may not be released on parole before the end of the minimum term. The parole period shall be between one and five years in length.

If the convicted person or the correctional services apply for release on parole, the prosecuting authority brings the case before the district court, which decides it by judgment. When the prosecuting authority consents to release on parole, such release may be decided by the correctional services.

The hearing of a case concerning release on parole shall be expedited.

The convicted person may not apply for release on parole earlier than one year after the sentence imposing preventive detention or a judgment refusing release on parole becomes final.

#### **Section 45. *Conditions in connection with release on parole***

The court may set the following conditions in connection with release on parole:

- a) conditions as in the case of a suspended sentence, see sections 35-37,
- b) a condition that the person released on parole shall be monitored by the correctional services, or
- c) a condition that the person released on parole shall stay in an institution or municipal residential unit beyond the one-year time frame in section 37, h). Such a condition may only be imposed if special reasons indicate that it is necessary and the institution or municipality has consented. The court may decide that the person released on parole may be held at the institution or the municipal residential unit against his/her will and be returned there in the event of flight, if necessary by force and with the assistance of public authorities.

In connection with release on parole, the correctional services may impose conditions specified in the first paragraph, a) and b), except for conditions specified in section 37, j) (other special conditions the court deems appropriate).

When conditions imposed require the person released on parole to be monitored by the correctional services, measures pursuant to section 56 of the Execution of Sentences Act may be implemented.

The convicted person shall be given an opportunity to comment on the conditions. The same applies to the correctional services when the conditions are imposed by the court.

Section 39, first paragraph, applies correspondingly to amendment of imposed conditions and extension of the parole period.

The person released on parole may apply to the district court for a ruling that conditions specified in the first paragraph, c), shall be set aside or amended, see section 39, first paragraph. Such an application may not be made earlier than one year after the judgment granting release on parole, or the district court's latest ruling, becomes final.

If it is important to the aggrieved person in the criminal case, or such person's survivors, to be informed of the date of release on parole, the correctional services shall notify the aggrieved person or his/her survivors in advance. The notification shall also include conditions imposed pursuant to statute or regulations, when such conditions relate directly to the aggrieved person or his/her survivors.

#### **Section 46. *Breach of conditions for preventive detention, etc.***

Upon request, the district court may by judgment decide that the person released on parole shall be returned to preventive detention, or impose a further parole period and new conditions if

- a) the person released on parole seriously or repeatedly breaches imposed conditions during the parole period,
- b) the person released on parole commits a further criminal act during the parole period, or
- c) special reasons no longer warrant release on parole pursuant to section 45, first paragraph, c).

The prosecuting authority's application for such a judgment must be submitted to the court within three months of the end of the parole period. If the person released on parole is being monitored by the correctional services, the correctional services shall provide comment before judgment is passed. The convicted person shall insofar as possible be given an opportunity to comment.

In cases pursuant to the first paragraph, b), the court may pass an aggregate sentence for both acts or a separate sentence in respect of the new act.

If the institution or municipality withdraws its consent pursuant to section 45, first paragraph, c), the released person shall be returned to preventive detention.

#### ***Section 47. Regulations on preventive detention and release on parole from preventive detention***

The King may issue regulations on the implementation of preventive detention and release on parole from preventive detention.

## **Chapter 8. Community sentence**

#### ***Section 48. Conditions for imposing a community sentence***

A community sentence may be imposed instead of a sentence of imprisonment if

- a) the severest penalty that would otherwise have been imposed is imprisonment for a term of one year,
- b) the purpose of the penalty would not be defeated by a non-custodial sanction, and
- c) the offender consents and is domiciled in Norway.

The first paragraph, a), may be departed from if all or part of the penalty that would otherwise have been imposed would have been suspended, if the offender is under 18 years of age, and otherwise if there are strong reasons for imposing a community sentence.

#### ***Section 49. Number of hours, alternative sentence of imprisonment and execution period***

When imposing a community sentence, the court shall set

- a) a community sentence of between 30 and 420 hours,
- b) an alternative sentence of imprisonment, which shall correspond to the sentence of imprisonment that would have been imposed in the absence of a community sentence, and
- c) an execution period, which shall normally correspond to the alternative sentence of imprisonment. If the alternative sentence of imprisonment is shorter than 120 days, the court may nevertheless set an execution period of up to 120 days.

Section 31, third paragraph, second and third sentences, apply correspondingly to the setting of the execution period and the alternative sentence of imprisonment.

#### ***Section 50. Power to impose conditions***

When imposing a community sentence, the court may order that the convicted person shall, during the execution period,

- a) comply with provisions made by the correctional services as to domicile, whereabouts, work, training or treatment, or
- b) be prohibited from having contact with specific persons.

### **Section 51. *Combination of a community sentence with other penalties***

A community sentence may be combined with

- a) an immediate sentence of imprisonment for a term not exceeding 60 days when warranted by special reasons, see section 32, first paragraph, a),
- b) a fine, see section 54, first sentence, b), see also second sentence, or
- c) loss of rights, see section 59, a).

### **Section 52. *Breach of conditions for a community sentence***

On application, the district court may by judgment decide that all or parts of the alternative sentence of imprisonment shall be executed when the convicted person

- a) breaches provisions issued in or pursuant to section 54, first and second paragraphs, section 55 or section 58, first paragraph, a) to d) of the Execution of Sentences Act, or
- b) commits a further criminal act before the end of the execution period.

In connection with such reversal, the court shall take into account how much of the community sentence has already been executed. If the alternative sentence of imprisonment is not to be executed in full, the court may extend the execution period by up to six months.

In the event of reversal pursuant to the first paragraph, b), the court may pass an aggregate sentence for both acts or a separate sentence in respect of the new act.

An application pursuant to the first paragraph, a), is made by the correctional services or the prosecuting authority. An application pursuant to the first paragraph, b), is made by the prosecuting authority. The application must be submitted to the court within three months of the end of the execution period.

The rules on notification in section 243 of the Criminal Procedure Act apply correspondingly to court hearings concerning reversal. The correctional services shall be notified pursuant to the same rules that apply with regard to the prosecuting authority.

## **Chapter 8 a. Youth sentences**

### **Section 52 a. *Conditions for imposing a youth sentence***

A youth sentence including a youth victim-offender meeting and youth action plan pursuant to chapter IV of the National Mediation Service Act may be imposed instead of a sentence of imprisonment if

- a) the offender was under 18 years of age at the time of the act,
- b) the offender has committed repeated or serious criminal acts,
- c) the offender consents and is domiciled in Norway, and
- d) the purpose of the penalty would not be defeated by a non-custodial sanction.

### **Section 52 b. *Execution period and alternative sentence of imprisonment***

When imposing a youth sentence, the court shall set:

- a) An execution period of between six months and two years. If the sentence of imprisonment that would have been imposed in the absence of a youth sentence clearly exceeds two years, an execution period of up to three years may be set.
- b) An alternative sentence of imprisonment, which shall correspond to the sentence of imprisonment that would have been imposed in the absence of a youth sentence. Section 31 shall apply correspondingly to the setting of an alternative sentence of imprisonment.

When a judgment imposing a youth sentence is read out to or served on the convicted person, he/she shall be informed in detail about the content of the judgment, and about the consequences of breaching the provisions made in or pursuant to section 31 of the National Mediation Service Act and of committing a further criminal act prior to the end of the execution period.

### **Section 52 c. *Breach of conditions for a youth sentence***

On application, the district court may by judgment decide that all or parts of the alternative sentence of imprisonment shall be executed when the convicted person has

- a) breached provisions issued in or pursuant to section 31 of the National Mediation Service Act, or
- b) committed a further criminal act before the end of the execution period.

In connection with such reversal, the court shall take into account how much of the youth sentence has already been executed.

In the event of reversal pursuant to the first paragraph, b), the court may pass an aggregate sentence for both acts or a separate sentence in respect of the new act.

An application pursuant to the first paragraph, a), is made by the correctional services. An application pursuant to the first paragraph, b), is made by the prosecuting authority. The application must be submitted to the court within three months of the end of the execution period.

The rules on defence counsel and on arrest and remand in custody in section 96, third paragraph, and section 99, first paragraph, third sentence, and chapter 14 of the Criminal Procedure Act apply correspondingly. The rules on notification in section 243 of the Criminal Procedure Act apply correspondingly to court hearings concerning reversal. The correctional services shall be notified pursuant to the same rules that apply with regard to the prosecuting authority.

## **Chapter 9. Fines**

### **Section 53. *Imposition of a fine***

A fine may be imposed as the sole penalty when this is provided for by the penal provision.

When assessing a fine weight shall be given, in addition to such factors that are generally given weight in assessing penalties, to the offender's income, assets, responsibility for dependents, debt burden, and other circumstances affecting financial capacity. Section 28 applies to the assessment of fines against an enterprise.

The fine accrues to the State unless otherwise provided.

If the offender was under 18 years of age at the time of the act, the court may decide that execution of the penalty may be suspended (suspended fine). The period of suspension shall normally be two years. Suspension of execution is granted on the basic condition that the convicted person does not reoffend in the period of suspension. In addition the court may set

special conditions as specified in section 36 and section 37, a) to j). The person charged shall be permitted to comment on special conditions before they are set. For optional penalty writes the rules on suspended fines apply correspondingly insofar as applicable.

#### **Section 54. *Combination of a fine with other penalties***

A fine may be imposed in addition to

- a) imprisonment, see section 32, b),
- b) a community sentence, see section 51, b), or
- c) loss of rights, see section 59, c).

This applies even if a fine is not prescribed as a penalty for the offence.

#### **Section 55. *Alternative sentence of imprisonment***

When a fine is imposed, an alternative sentence of imprisonment from one to 120 days is set. The alternative penalty may be executed when the conditions of section 456, second paragraph, first sentence of the Criminal Procedure Act have been fulfilled.

An alternative sentence of imprisonment lapses upon full payment of the fine. If part of the fine is paid, the sentence of imprisonment is proportionally reduced, calculated in whole days.

If a fine has been imposed on an enterprise pursuant to section 27 or an offender who was under 18 years of age at the time of the act, a sentence of imprisonment pursuant to the first paragraph shall not be set.

## **Chapter 10. Loss of rights**

#### **Section 56. *Loss of the right to occupy a position or engage in an enterprise or activity***

Any person who has committed a criminal act that shows that the said person is unfit for or may misuse a position, enterprise or activity, may, when in the public interest,

- a) be deprived of the position, or
- b) be deprived of the right in future to occupy a position or engage in an enterprise or activity.

Such a loss of rights may be limited to prohibiting the exercise of certain functions pertaining to the position or enterprise, or to ordering engagement in the enterprise or activity on specific conditions.

Any person who has been deprived of the right to engage in an enterprise is also prohibited from conducting such enterprise on behalf of other persons or allowing other persons to conduct such enterprise on his/her behalf.

The offender may be ordered to surrender any document or other object that has served as evidence of the lost right.

A loss of rights pursuant to this provision may be imposed as the only penalty if the minimum penalty prescribed for the act does not exceed one year of imprisonment.

#### **Section 57. *Restraining orders***

A restraining order may be made against any person who has committed a criminal act when there is reason to believe that the person will otherwise

- a) commit a criminal act against another person,



- b) stalk another person, or
- c) otherwise disturb another person's peace.

The restraining order may provide that the person subject to the order may not

- a) be present in specific areas, or
- b) stalk, visit or otherwise contact another person.

If there is an obvious risk of an act specified in the first paragraph, a), the offender may be banned from his/her own home.

The restraining order may be limited subject to specific conditions.

If deemed necessary to ensure compliance with the restraining order, the court may decide that the person subject to the restraining order shall have electronic monitoring imposed for all or part of the duration of the restraining order. Such monitoring may only entail registration of information that the convicted person is moving within areas covered by the restraining order, information that the convicted person is moving in the vicinity of the aggrieved person, and information on any loss of signal from the monitoring equipment. The convicted person has a duty to provide such assistance and follow such police instructions as are necessary for implementation of the monitoring. The King may issue further rules on the implementation of electronic monitoring, including on the handling of personal data in connection with such monitoring.

A loss of rights pursuant to this provision may be imposed as the only penalty if the minimum penalty prescribed for the act does not exceed one year of imprisonment.

### **Section 58. *Duration of a loss of rights***

A loss of rights enters into force on the day the sentence or an optional penalty writ becomes final.

A loss of rights pursuant to section 56, first paragraph, b) or section 57 is imposed for a specific period of time not exceeding five years, or for an indefinite period when special reasons so warrant. However, electronic monitoring may not be imposed indefinitely. A person may only be deprived of an office as a municipal board member, county council member or member of Parliament for the electoral term. A ban from one's own home, see section 57, third paragraph, may only be imposed for a specific period not exceeding one year.

The district court may review a loss of rights specified in the second paragraph after three years. The district court may review an order imposing electronic monitoring after six months. The application is made to the prosecuting authority, which prepares the case for the court. Section 222 a, eighth paragraph, second and third sentences, of the Criminal Procedure Act applies correspondingly in connection with review of a restraining order or an order imposing electronic monitoring. The court's decision is made in the form of a ruling. If the loss of rights is upheld in full or in part, the case may not be reviewed again for a period of three years. If an order imposing electronic monitoring is upheld, the order may not be reviewed again for a period of six months.

The time stipulated for a loss of rights and for the opportunity to apply for a review pursuant to the third paragraph does not run during the period the offender is serving a custodial sentence or is evading the execution of such a penalty.

The district court in the judicial district where a restraining order applies may, on application of the prosecuting authority and in the interests of the person or persons the order is intended to protect, amend the content of the restraining order, see section 57, second paragraph. The third paragraph, third and fifth sentences, and section 222 a, eighth paragraph, second and third sentences, of the Criminal Procedure Act apply correspondingly.

### **Section 59. *Combination of a loss of rights with other penalties***

A loss of rights may be combined with

- a) a sentence of imprisonment, see section 32, first paragraph, c),
- b) a community sentence, see section 51, c),
- c) a fine, see section 54, first sentence, c), see also second sentence, or
- d) preventive detention, see section 41.

## **Chapter 11. Deferment of sentencing and waiver of sentencing**

### **Section 60. *Deferment of sentencing***

Even if guilt is deemed proven, the court may defer sentencing for a probation period.

When an offender has committed several offences and a single sentence is to be imposed, see section 79, a), deferment of sentencing may be combined with

- a) a period of immediate imprisonment, which may not be shorter than 14 days, or
- b) a fine, even if a fine is not prescribed as the penalty for the offences.

The rules in section 34, second and third paragraphs, and sections 35 to 39 apply correspondingly insofar as applicable. However, section 39, second paragraph, fourth sentence, does not apply.

### **Section 61. *Waiver of sentencing***

Even if guilt is deemed proven, the court may, when exceptional reasons so warrant, waive sentencing.

In deciding whether exceptional circumstances apply, particular weight shall be given to whether imposing a sentence will have the effect of an unreasonable additional burden on the offender, provided that the purpose and effects of the penalty in general do not indicate that a sanction should be imposed.

Section 60, second paragraph, applies correspondingly.

## **Chapter 12. Committal to psychiatric care and committal to care**

### **Section 62. *Conditions for committal to psychiatric care***

When deemed necessary to protect the life, health or freedom of other persons, an offender who is exempt from punishment pursuant to section 20, b) or d), may be committed to psychiatric care, see chapter 5 of the Mental Health Care Act, when he has committed or attempted to commit a violent offence, sexual offence, unlawful imprisonment, arson or another offence that has infringed the life, health or freedom of another person or could have put these legal interests at risk and the conditions in the second or third paragraphs are met. Committal to psychiatric care, see chapter 5 of the Mental Health Care Act, may also be imposed on an offender who is exempt from punishment pursuant to section 20, b) or d), if he has repeatedly committed offences that are harmful to society or particularly bothersome, if it is necessary to protect society or other persons against such offences and the conditions in the fourth paragraph are met.

If the offence was serious in nature, there must be an obvious risk that the offender will again commit a serious offence that infringes or puts at risk the life, health or freedom of another person.

If the offence was less serious in nature

- a) the offender must previously have committed or attempted to commit a serious offence that infringed or put at risk the life, health or freedom of another person,
- b) there must be a presumption of a close connection between the earlier and present offence, and
- c) the risk of commission of a further, serious offence as specified in a) must be particularly imminent.

If the offences were harmful to society or particularly bothersome, the risk of further offences of the same type must be particularly obvious, and other measures must have proven to be clearly unsuitable.

When assessing the risk of commission of a further offence pursuant to this provision, emphasis shall be given to the committed offence by reference particularly to the offender's conduct, illness progression and mental functional capacity.

### **Section 63. *Conditions for committing to care severely mentally disabled persons, etc.***

Subject to the conditions specified in section 62, any person who cannot be penalised pursuant to section 20, c), may be committed to care.

Care pursuant to this section shall be undergone in an expert unit of the specialist health service constituted for the purpose. When in the interests of the convicted person and not inadvisable for security reasons, the expert unit may pursuant to further regulations issued by the King enter into an agreement for the execution of care outside the expert unit.

The convicted person may be held against his/her will and be returned in the event of flight, if necessary by force and with the assistance of public authorities. The expert unit has overall responsibility for the execution of compulsory care, including when the special sanction is executed outside the expert unit.

### **Section 64. *Detailed provisions on execution of care***

The following provisions of the Mental Health Care Act apply correspondingly to the execution of committal to care insofar as applicable:

- a) Chapter 1, chapter 4 except for sections 4-5, second paragraph, 4-9 and 4-10, and chapter 6, with regulations, when the special sanction is executed in the expert unit. However, the provision in section 4-4, second paragraph, second sentence, only applies if so prescribed in regulations issued by the King.
- b) Chapter 1 and chapter 6 when the special sanction is executed outside the expert unit.

The King may issue regulations providing that chapter 9 of the Health and Care Services Act shall apply correspondingly. The King may issue special provisions on applicable administrative proceedings.

The King will issue regulations containing detailed provisions on the execution of care pursuant to section 63, including provisions that identify which measures are subject to review pursuant to the rules in chapter 36 of the Dispute Act.

### **Section 65. *Cessation of sanctions***

Psychiatric care pursuant to section 62 and care pursuant to section 63 may be maintained only

as long as the condition in section 62 regarding the risk of repetition is met.

The convicted person, his/her next-of-kin and the experts at the institution responsible for the treatment of the convicted person may apply for cessation of the sanction. Who qualifies as next-of-kin of the convicted person is determined pursuant to section 1-3, first paragraph, b), of the Patient and User Rights Act. The prosecuting authority brings the case before the district court, which makes a decision by judgment. The hearing of the case shall be expedited.

Cessation of the sanction may not be applied for until one year after the judgment ordering committal or a judgment refusing cessation becomes final. In the case of a special sanction imposed on the basis of an offence specified in section 62, first paragraph, second sentence, cessation may not be applied for until six months after the judgment ordering committal or a judgment refusing cessation becomes final.

The prosecuting authority may decide to effect cessation of the sanction at any time. No later than three years after the last legally enforceable judgment, the prosecuting authority shall either decide to effect cessation of the sanction or bring the case before the district court, which decides by judgment whether the sanction is to be maintained. A special sanction imposed on the basis of an offence specified in section 62, first paragraph, second sentence, shall cease no later than three years after the judgment ordering committal.

If a person subject to a special sanction is expelled from or leaves the realm, the special sanction ceases temporarily. If the person in question returns to the realm, the prosecuting authority shall decide whether the sanction is to be maintained or to cease. If the prosecuting authority decides to maintain it and more than three years have passed since the last legally enforceable judgment, the prosecuting authority shall bring the case before the district court, see the fourth paragraph.

## Chapter 13. Confiscation

### Section 66. *Combination of confiscation with penalties and other criminal sanctions*

Confiscation pursuant to this chapter may be imposed alone or together with penalties or other criminal sanctions.

### Section 67. *Confiscation of proceeds*

Any proceeds of a criminal act shall be confiscated. Instead of the proceeds, all or part of the value of the proceeds may be confiscated. Confiscation shall take place even though the offender was unaccountable, see section 20, or was not culpable. Liability pursuant to this provision may be reduced or waived if confiscation would clearly be unreasonable.

Any asset that represents proceeds, profit and other advantages of the proceeds shall be regarded as proceeds. Expenses incurred shall not be deducted. If the amount of the proceeds cannot be established, the amount shall be determined approximately.

The court – or the prosecuting authority in an optional penalty writ of confiscation – may determine that the amount to be confiscated shall be reduced by an amount which corresponds to compensation the offender or someone who is liable for the harm done has paid to the injured person, and which wholly or partially corresponds to the proceeds. The same applies when the offender has met an obligation which relates to the criminal prosecution.

In the event of confiscation of value, see the second sentence of the first paragraph, it may be stipulated that the asset shall serve as security for the amount to be confiscated.

**Section 68. *Extended confiscation***

Extended confiscation may be effected when the offender is found guilty of a criminal act of such a nature that the proceeds thereof may be considerable, and the offender has committed

- a) one or more criminal acts that collectively are punishable by imprisonment for a term of six years or more,
- b) at least one criminal act which is punishable by imprisonment for a term of two years or more, and the offender during the five years immediately preceding the commission of the act has had a penalty imposed for an act of such a nature that the proceeds thereof may be considerable, or
- c) an attempt at an act specified in a) or b).

There shall be no increase of the penalty pursuant to section 79 b) and c).

In the event of extended confiscation all assets belonging to the offender may be confiscated unless the offender proves on a balance of probabilities that the said assets have been lawfully acquired. Section 67, first paragraph, second sentence, and fourth paragraph, apply correspondingly.

In the event of extended confiscation from the offender the value of all assets belonging to the offender's present or previous spouse may also be confiscated unless

- a) they were acquired before the marriage was entered into or after the marriage was dissolved,
- b) they were acquired at least five years before the criminal act that provides a basis for extended confiscation, or
- c) the offender proves on a balance of probabilities that the assets were acquired by means other than criminal acts the offender has committed personally.

When two persons are living together permanently in a marriage-like relationship, this is deemed equivalent to marriage.

**Section 69. *Confiscation of the product, subject or tools of a criminal act***

Property which

- a) is the product of,
- b) has been the subject of, or
- c) has been used or intended for use in

a criminal act, may be confiscated. Instead of the property, all or part of the value of the property may be confiscated. Section 67, first paragraph, third sentence, and fourth paragraph, apply correspondingly.

Rights, receivables and electronically stored information are also considered property.

In determining whether confiscation shall be effected, and the scope of the confiscation, particular weight shall be given to whether confiscation is necessary for the purposes of effective enforcement of the penal provision, and whether it is proportionate. In assessing proportionality, weight shall among other things be given to other sanctions that are imposed, and the consequences for the person against whom the confiscation is effected.

**Section 70. *Preventive confiscation***

Property may be confiscated when, due to the nature of the property and other circumstances, there is an obvious risk that it will be used in a criminal act. If the property is suited for use in physical assault, it is sufficient that there is a risk of such use. Confiscation of an information carrier, see section 76, may only be effected when there is a risk of irreparable harm.

Instead of confiscating the object, measures may be imposed to prevent the use of the property in offences.

Section 69, second paragraph, applies correspondingly.

Confiscation pursuant to the first paragraph may be effected regardless of who is the owner.

### **Section 71. *Whom confiscation may be effected against***

Confiscation of proceeds pursuant to section 67 shall be effected against the person to whom the proceeds have directly accrued as a result of the act. It shall be assumed that the proceeds have accrued to the offender, unless the offender proves on a balance of probabilities that they have accrued to another person.

Extended confiscation pursuant to section 68 shall be effected against the offender.

Confiscation pursuant to section 69 shall be effected against the offender or the person the offender acted on behalf of. Confiscation as specified in section 69, first paragraph, c), or of an amount that wholly or partially corresponds to its value, may alternatively be effected against an owner who realized or ought to have realized that the property was to be used in a criminal act.

Confiscation pursuant to section 70 shall be effected against the person who is in possession of or owns the property.

### **Section 72. *The relationship to receivers***

If proceeds, see section 67, or property as specified in section 69 have been transferred after the time of the act from a person who may be subject to confiscation, confiscation of the transferred property or its value may be effected against the receiver if the transfer has occurred as a gift or the receiver realized or ought to have realized the connection between the criminal act and what has been transferred.

If extended confiscation may be effected pursuant to section 68, and the offender has transferred an asset to one of his/her next-of-kin, the asset or its value may be confiscated from the receiver if the prosecuting authority proves on a balance of probabilities that it has been acquired by the offender's commission of an offence. This shall nevertheless not apply to assets transferred more than five years before commission of the act that forms the basis for confiscation, or assets received by way of ordinary maintenance from a person who is obligated to provide such maintenance.

If, in the event of confiscation from the offender, the assets of any person specified in section 68, third paragraph, are wholly or partly taken into account and the person meets his or her liability pursuant to this section, the offender's liability shall be correspondingly reduced. If the offender has met his or her liability pursuant to section 68, second paragraph, any further confiscation from the offender shall lead to a corresponding reduction of the liability of the receiver.

The second paragraph applies correspondingly to transfer to an enterprise if the offender

- a) alone or together with any person specified in the second paragraph owns a substantial part of the enterprise,
- b) receives a considerable part of the income of the enterprise, or
- c) by virtue of his or her management position has substantial influence over it.

The same shall apply to any right which after the time of the act is established in the property by any person against whom confiscation may be effected unless the right has been established by attachment lien, freezing order or statutory lien.

### **Section 73. *Relationship to rights holders***

A right that is legally secured on an asset which is confiscated may wholly or partially be determined to have lapsed in relation to a rights holder

- a) who has personally committed the criminal act,
- b) on whose behalf the offender has acted, or
- c) who, when the right was legally secured by other means than by attachment lien, freezing order or statutory lien, realized or ought to have realized that the property was to be used in a criminal act, or that it could be confiscated.

Section 67, first paragraph, third sentence, applies correspondingly.

#### **Section 74. *General rules on confiscation of proceeds and property which do not belong to the offender***

When confiscation of seized proceeds, see sections 67 and 68, or property, see sections 69 and 70, which do not belong to the offender is claimed, the claim is directed at the owner or rights holder. The same applies when confiscation is claimed of the value of property which has been seized, or which has been exempted from seizure on provision of security.

When the owner or rights holder is unknown or his whereabouts in Norway are unknown, confiscation may be effected in proceedings against the offender or the person who was in possession at the time of seizure, provided this is deemed reasonable in view of the owner's circumstances. The same applies when confiscation is claimed of the value of property which has been seized, or which has been exempted from seizure on provision of security. The owner shall as far as possible be notified about the matter.

If the whereabouts in Norway of the offender and the possessor are unknown, the district court may order confiscation on the terms specified in the second paragraph, without any person being sued.

These rules apply correspondingly to confiscation of rights pursuant to section 72, fifth paragraph, and section 73.

#### **Section 75. *Beneficiaries of confiscation***

Confiscation shall be effected in favour of the State unless otherwise provided.

In the judgment or in a subsequent order issued by the district court that decided the issue of confiscation, the court may determine that the proceeds of confiscation be applied to cover any claim for compensation made by the injured person.

The Ministry may decide that the proceeds of any confiscation shall be divided between the Norwegian State and one or more other states. In the decision, importance shall be attached to, inter alia, what expenses have been incurred in such states and in which countries harmful effects have occurred and proceeds have been acquired. Any division pursuant to this paragraph may not result in any reduction of the covering of the aggrieved person's claim for compensation pursuant to the second paragraph.

#### **Section 76. *Special rules for confiscation of an information carrier***

In this provision, «information carrier» means printed text matter or anything else that conveys written, visual, auditory or electronically stored information.

When confiscating an information carrier, it must be stated which parts of the contents warrant the confiscation. The person who is subjected to the confiscation may, in return for covering the costs, demand a copy of the portion of the contents not covered by the confiscation.

If the offender does not hold the title to an information carrier on a computer system that is the subject of a claim for confiscation, the claim shall be directed at the provider of the data processing system. The provider may be required to block the offender's access to the information carrier and delete content belonging to the offender. If the offender holds the rights to the information carrier, the provider may be required to block access to the information carrier and delete the contents.

## Chapter 14. General rules on determining sanctions

### Section 77. *Aggravating circumstances*

In connection with sentencing, aggravating factors to be given particular consideration are that the offence:

- a) was committed by means or methods which are particularly dangerous or carry a considerable potential for harm,
- b) placed human life or health at risk or caused loss of welfare,
- c) was intended to have a substantially more serious outcome or this could easily have been the consequence,
- d) was committed in a particularly reckless manner,
- e) formed part of a planned or organised enterprise,
- f) was committed by multiple persons acting together,
- g) was perpetrated by the offender exploiting or misguiding young persons, persons in a very difficult life situation, who are mentally disabled or in a dependent relationship with the offender,
- h) affected persons who are defenceless or particularly vulnerable to criminal offences,
- i) was motivated by a person's religion or life stance, skin colour, national or ethnic origin, homosexual orientation, disability or other circumstances relating to groups with a particular need for protection,
- j) was committed in the course of public service or was perpetrated by violating a special trust,
- k) was committed by a person who has previously been the subject of a criminal sanction for similar acts or other acts of relevance to the case,
- l) was committed in the presence of a child under 15 years of age.

### Section 78. *Mitigating circumstances*

In connection with sentencing, mitigating factors to be given particular consideration are that:

- a) there exists a situation or condition as specified in section 80 b), c), d), e), i) or j),
- b) the offender has prevented, reversed or limited the harm or loss of welfare caused by the offence, or sought to do so,
- c) the offence was to a significant degree occasioned by the circumstances of the aggrieved party,
- d) the offender had, at the time of the act, reduced capacity to realistically assess his or her relationship to the outside world due to mental illness, mental disability, impairment of consciousness not caused by self-induced intoxication, or a state of severe mental agitation,
- e) the offence was committed a long time ago, or the proceedings have taken longer than is reasonable based on the nature of the offence, through no fault of the offender,
- f) the offender has made an unreserved confession, or contributed significantly to solving other offences,
- g) the offender himself/herself has been severely affected by the offence, or the criminal sanction will impose a heavy burden due to advanced age, illness or other circumstances,
- h) the prospects for rehabilitation are good,



- i) the offender was under 18 years of age at the time of the act.

**Section 79. *Imposition of penalties exceeding the maximum penalty (multiple offences, repeated offences, organised crime)***

If one or more of the situations in a) to c) exist, the sentence of imprisonment may be increased up to double length, but under no circumstances by more than six years and never beyond 21 years, and for persons who were under 18 years of age at the time of the act, not beyond 15 years:

- a) when an offender has by one or more acts committed multiple offences, and a single sentence is to be imposed. The increase in the sentence of imprisonment shall be calculated on the basis of the maximum penalty prescribed in the most severe penal provision. The sentence pursuant to the present lettered provision may never exceed the sum of the maximum penalties. Increase of the maximum penalty pursuant to the present lettered provision is only relevant in relation to statutory provisions which provide that the increased maximum penalty shall be given legal effect.
- b) when a previously convicted person has again committed a criminal act of the same nature as one for which he/she has previously been convicted within the realm or abroad, unless the penal provision itself determines otherwise. Increase of the maximum penalty pursuant to the present lettered provision is only relevant in relation to statutory provisions which provide that the increased maximum penalty shall be given legal effect.

The first part of the present lettered provision only applies when the convicted person was at least 18 years of age at the time of the previous criminal act, and has committed the new act after the penalty for the previous act has wholly or partially been executed. If the new criminal act carries a penalty limit of more than one year, the first part of the present lettered provision does not apply if the new act was committed more than six years after execution of the previous penalty was complete, unless otherwise provided. If the new criminal act carries a penalty limit of one year or less, no more than two years may have passed since the execution was complete.

- c) when a criminal act was perpetrated as part of the activities of an organised criminal group.  
«Organised criminal group» means a collaboration between three or more persons for the primary purpose of committing an act that may be punishable by a sentence of imprisonment for a term of at least three years, or which is based on activities consisting to a not insignificant degree of the commission of such acts.

Increase of the maximum penalty pursuant to the present lettered provision is applicable in relation to statutory provisions which confer legal effect on the penalty limit, unless otherwise provided.

**Section 80. *Imposition of a penalty below the minimum penalty or a less severe type of penalty***

The penalty may be set below the minimum penalty of the penal provision or to a less severe penalty type when the offender

- a)
1. without knowing he/she was under suspicion has to a significant degree prevented or reversed the harm caused by the offence, or
  2. has made an unreserved confession,
- b) is being sentenced for attempt,
- c)
1. has acted on the basis of a dependent relationship to another participant, or
  2. has only participated to a minor degree,
- d) has exceeded the limits of
1. an act of necessity (see section 17),
  2. self-defence (see section 18), or
  3. self-enforcement (see section 19),
- e) has acted out of justifiable anger, under compulsion or under obvious danger,

- f) at the time of the act, had a serious mental illness with a significantly reduced capacity to realistically assess his/her relationship to the surrounding world, but is not psychotic,
- g) at the time of the act, is mentally disabled to a lesser degree,
- h) at the time of the act, had a somewhat less severe impairment of consciousness than would provide exemption from punishment pursuant to section 20, d). However, if the impairment of consciousness is a consequence of self-induced intoxication, this only applies when particularly mitigating circumstances so warrant,
- i) is under 18 years of age at the time of the act, or
- j) has acted under negligent ignorance of the law when violating a penal provision which requires intent or gross negligence.

### **Section 81. *Circumstances which may lead to exemption from punishment***

The court may acquit any person who

- a) without knowing he/she was under suspicion, has to a significant degree prevented or reversed the harm caused by an offence which is punishable by a fine, or
- b) has exceeded the limits of
  1. an act of necessity (see section 17),
  2. self-defence (see section 18), or
  3. self-enforcement (see section 19),and special reasons warrant acquittal.

### **Section 82. *Follow-up sentence***

In cases of conviction for offences committed prior to judgment in another case, an additional sentence is passed for these offences if sentence could have been passed for all the offences at the same time. Section 31, second paragraph and third paragraph, second and third sentence, do not apply.

When sentencing, section 79 applies correspondingly. Consideration should be given to what a suitable penalty would have been in the case of simultaneous sentencing, and the total penalty must not be more severe than if sentence had been passed for all the offences at the same time.

In cases of conviction for offences committed in part before and in part after judgment in another case, an aggregate sentence is generally passed for all the offences. The second paragraph, second sentence, applies correspondingly to the offences that were committed prior to the first judgment.

When there are grounds for doing so, an aggregate sentence may also be passed in other situations. The second paragraph applies correspondingly.

If an aggregate sentence is passed which includes a previous sentence which has been wholly or partly executed, a deduction shall be granted for portions served.

The judgment shall state whether it is an additional sentence or an aggregate sentence.

### **Section 83. *Deduction for time spent in custody on remand***

The time the person charged has been deprived of liberty in connection with the case shall be deducted from the penalty pursuant to the provisions of this section. This also applies to deprivation of liberty abroad or on account of aspects of the case for which the person charged is acquitted, or which are dropped.

A deduction of one day shall be granted for each commenced day of deprivation of liberty after arrest that exceeds four hours. For deprivation of liberty in complete isolation exceeding four hours, a further deduction shall be granted equivalent to one day for each 48-hour period commenced while the convicted person was subjected to complete isolation. The deduction for time spent in custody on remand shall be set out in the judgment or in the optional penalty writ. Even if the deprivation of liberty was somewhat shorter than the imposed penalty, the penalty may be deemed to have been served in its entirety.

When partially suspended imprisonment is imposed, the deduction for time spent in custody on remand shall be made first from the immediate part of the penalty.

When imprisonment and fines are imposed, the deduction for time spent in custody on remand shall be made first from the sentence of imprisonment.

When preventive detention is imposed, the full deduction for time spent in custody on remand shall be made from both the minimum term and the time frame.

When a fine is imposed, the deduction for time spent in custody on remand shall be made from the alternative sentence of imprisonment, and the fine shall be reduced proportionately.

When a community sentence is imposed, the deduction for time spent in custody shall be made from the alternative sentence of imprisonment, and the number of hours of the community sentence and the execution period shall be reduced proportionately. If a community sentence is imposed together with immediate imprisonment, the deduction shall be made first from the sentence of imprisonment.

When a youth sentence is imposed, the deduction for time spent in custody on remand shall be made from the alternative sentence of imprisonment.

When sentencing is deferred, the judgment shall note whether the person charged has been deprived of liberty on account of the case and, if so, for how long.

#### **Section 84. *Deduction for executed criminal sanctions imposed abroad***

An executed criminal sanction that was imposed abroad for an act for which sentence is also passed in Norway shall as far as possible be deducted from the Norwegian sentence.

## **Chapter 15. Limitation, etc.**

#### **Section 85. *Cessation of criminal liability upon expiry of limitation period***

An act is not punishable when the limitation period pursuant to sections 86 to 89 has expired.

#### **Section 86. *The limitation period***

The limitation period for criminal liability is

- a) two years when the maximum statutory penalty prescribed is a fine or imprisonment for a term not exceeding one year,
- b) five years when the maximum statutory penalty prescribed is imprisonment for a term not exceeding three years,
- c) 10 years when the maximum statutory penalty prescribed is imprisonment for a term not exceeding 10 years,
- d) 15 years when the maximum statutory penalty prescribed is imprisonment for a term not exceeding 15 years,

- e) 25 years when the maximum statutory penalty prescribed is imprisonment for a term not exceeding 21 years.

When calculating the limitation period it is irrelevant that another penalty may be imposed in addition to fines or imprisonment.

If a person has by the same act committed several offences which would have different limitation periods pursuant to the first paragraph, the longest limitation period applies to all the offences.

### **Section 87. *The start of the limitation period***

The limitation period for criminal liability shall be calculated from the day the offence ceased. However, for violations of sections 253, 257, 282, 284, 299 and 302, the limitation period shall be calculated from the day the aggrieved party reaches 18 years of age.

When the punishability of the act depends on or is affected by an arisen effect, the limitation period shall be calculated starting no earlier than the day the effect materialised.

If the criminal act was perpetrated on a Norwegian vessel outside the realm, the limitation period shall be calculated from the day the vessel arrived at a Norwegian port. However, the start of the limitation period may not be shifted by more than one year pursuant to this paragraph.

### **Section 88. *Interruption of the limitation period***

The limitation period pursuant to section 86 is interrupted when the suspect acquires the status of a person charged, see section 82 of the Criminal Procedure Act. If the charge is made by a statement out of court or by issuance of an optional penalty writ, the limitation period is interrupted when the person charged is notified of the charge. For such notification section 146, second paragraph, of the Courts of Justice Act applies correspondingly.

The interruption loses its effect when the prosecution is discontinued without the decision to do so being reversed by the superior prosecuting authority within the time limit given in section 75, second paragraph, of the Criminal Procedure Act. The same applies when the prosecution is suspended indefinitely. When calculating whether the limitation period has expired, the period of prosecution shall be included. This does not apply if the prosecution is suspended because the person charged has evaded prosecution.

### **Section 89. *Limitation of criminal liability for enterprises***

The limitation period applicable to criminal liability for an enterprise shall be calculated on the basis of the penalty limit for individuals in the penal provision that has been violated.

If the limitation period is interrupted for a person who has acted on behalf of an enterprise, the interruption also applies to the enterprise.

### **Section 90. *Interruption of the limitation period during bankruptcy and debt-settlement negotiations***

The limitation period for violation of sections 392 to 394 and chapter 31 regarding creditor protection does not run during bankruptcy or debt-settlement negotiations pursuant to law. However, the limitation period may not be extended by more than five years pursuant to this section.

**Section 91. *Criminal liability which is not subject to limitation***

Criminal liability for genocide, crimes against humanity, war crimes and terrorist acts is not subject to limitation if the acts are punishable by imprisonment for a term of 15 years or more. Criminal liability for acts carried out in violation of sections 275, 291, 299 and 302 are not subject to limitation. Nor is criminal liability for violations of section 355, first alternative act, subject to limitation if any person dies because of the offence.

**Section 92. *The limitation period for liability to confiscation***

The limitation period given in section 86 applies to limitation of liability to confiscation, but the limitation period shall not be shorter than five years. For confiscation pursuant to sections 67 and 68 the limitation period shall not be shorter than 10 years.

**Section 93. *The limitation period for imposed custodial sentences and community sentences***

Imposed sentences of imprisonment shall lapse upon expiry of the following limitation periods:

- a) five years for imprisonment for a term not exceeding one year,
- b) 10 years for imprisonment for a term of more than one year and not exceeding four years,
- c) 15 years for imprisonment for a term of more than four years and not exceeding eight years,
- d) 20 years for imprisonment for a term of more than eight years and not exceeding 20 years,
- e) 30 years for imprisonment for a term of more than 20 years.

If execution of a sentence of imprisonment is partly suspended pursuant to section 34, first paragraph, first sentence, the limitation period shall be calculated separately for the suspended and immediate parts of the sentence.

The limitation period for an imposed sentence of preventive detention expires according to the rules of the first paragraph on the basis of the stipulated maximum term that the preventive detention may not exceed, see section 43, first paragraph, first and second sentences.

The limitation period for an imposed community sentence expires according to the rules of the first paragraph on the basis of the stipulated alternative sentence of imprisonment, see section 49, first paragraph, b).

In cases of release on parole from a custodial sentence the limitation period for the remaining penalty shall be calculated on the basis of the remainder of the sentence. The same applies when the execution is interrupted in any other way and to interruption of a community sentence.

**Section 94. *The start of the limitation period pursuant to section 93***

The limitation period for an imposed custodial sentence shall be calculated from the day the judgment is final.

The limitation period does not run as long as execution cannot be commenced because the convicted person is deprived of liberty in another case pursuant to a judgment or community sentence.

In the event of a decision of re-imprisonment to serve the remaining penalty following release on parole, the limitation period for the remaining penalty shall be calculated from the day the re-imprisonment decision is final. If execution is interrupted other than by release on parole, the limitation period shall be calculated from the interruption.

The limitation period for a community sentence shall be calculated from the day the judgment is final. The second paragraph and third paragraph, second sentence, apply correspondingly. The same applies to section 97, third paragraph.

If execution of the sentence is suspended by a suspended sentence or pardon, no limitation period shall run in the period of suspension.

#### **Section 95. *Interruption of the limitation period pursuant to section 93***

The limitation period pursuant to section 93 is interrupted on commencement of execution of the sentence, or on arrest of the convicted person to ensure execution.

#### **Section 96. *Imposed penalties that are not subject to limitation***

Imposed penalties for genocide, crimes against humanity, war crimes and terrorist acts are not subject to limitation if the acts are punishable by imprisonment for a term of 15 years or more.

#### **Section 97. *The limitation period for imposed fines***

Imposed fines shall lapse 10 years after the optional penalty writ or judgment became legally enforceable.

Expiry of the limitation period for a fine has no effect on attachment liens, attachment of earnings or other security established prior to the expiry of the limitation period.

A sentence of imprisonment imposed pursuant to section 55 shall lapse when execution of the sentence has not commenced within five years of the date the judgment is final. The limitation period does not run as long as execution cannot commence because the convicted person is deprived of liberty in another case pursuant to a judgment or community sentence.

#### **Section 98. *Limitation period for special sanctions imposed on unaccountable persons***

Special sanctions imposed on unaccountable persons, see sections 62 and 63, shall lapse by limitation after 20 years. The rules of sections 94 and 95 apply correspondingly insofar as they are appropriate.

#### **Section 99. *Limitation period for confiscation orders***

A confiscation order shall lapse five years after the optional penalty writ or judgment became legally enforceable. However, for confiscation of proceeds, including confiscation pursuant to section 68, the limitation period shall be 10 years.

Expiry of the limitation period for confiscation has no effect on attachment liens, attachment of earnings or other security established prior to the expiry of the limitation period.

#### **Section 100. *Lapse of criminal liability and liability to confiscation, etc. upon the death of the guilty or liable person***

Criminal liability shall lapse upon the death of the guilty person.

Liability for confiscation shall lapse upon the death of the liable person. In cases of confiscation of proceeds, including confiscation pursuant to section 68 and section 72, second paragraph, proceedings may still be instituted, and a confiscation order may be executed if it is decided by a ruling of the court that adjudicated the case in the first instance, or by the district court that has jurisdiction over the matter pursuant to section 12 of the Criminal Procedure Act when confiscation is accepted by optional penalty writ. The court may impose confiscation of a sum instead of property.