

Offences Against the Person

- Assault
- Causing Harm
- Causing Serious Harm
- Unlawful Threat
- Unlawful Stalking

Unlawful Threats: s 19			
<u>Section</u>	<u>Physical Elements</u>	<u>Fault Elements</u>	<u>Examples</u>
19(1) (a) (b)	<u>Conduct:</u> Threatens to kill or endanger the life of another; AND to arouse a fear that the threat will be, or is likely to be, carried out <u>Circumstance:</u> Without lawful excuse	Intention or recklessness	
19(2) (a) (b)	<u>Conduct:</u> Threatens to cause harm to another; AND to arouse a fear that the threat will be, or is likely to be, carried out <u>Circumstance:</u> Without lawful excuse	Intention or recklessness	Excuse: as a police officer/military personnel or in self-defence Harm as per s 21 cause harm provision
19(3)	Threats that are in/directly communicated by words (written or spoken), or conduct, or each partially		
Causing Harm: s 24		Basic and Aggravated offences exist: s 5AA. If no intention or harm consider assault.	
<u>Section</u>	<u>Physical Elements</u>	<u>Fault Elements</u>	<u>Examples</u>
24(1)	<u>Conduct:</u> Act causing <u>Result:</u> Harm to another	Intention	Physical harm: includes unconsciousness, pain, disfigurement, infection with disease. Cause: a person causes harm if the person's conduct is the sole cause of the harm or substantially contributes to the harm.
24(2)	<u>Conduct:</u> Act causing <u>Result:</u> Harm to another	Recklessness	Mental harm: means psychological harm and does not include emotional reactions such as distress, grief, fear or anger unless they result in psychological
See causing serious harm for defences			

Causing Serious Harm: s 23		Basic and Aggravated offences exist: s 5AA. If no intention or harm consider assault	
Section	Physical Elements	Fault Elements	Examples
23(1)	<u>Conduct:</u> A person who causes <u>Result:</u> Serious harm to another	Intending to cause serious harm	Multiple acts of harm that occur in the course of the same incident, or together constitute a single course of conduct, and a person who commits any of the acts causing harm is taken to cause serious harm even though the harm caused by the act might not, if considered in isolation, amount to serious harm: s 21
23(3)	<u>Conduct:</u> A person who causes <u>Result:</u> Serious harm to another	Reckless in causing harm	Serious harm: harm that endangers a person's life; or harm that consists of, or results in, serious and protracted impairment of a physical or mental function; or harm that consists of, or results in, serious disfigurement
23(2)	Maximum penalty can be exceeded if V suffers such serious harm that it is warranted. Court applies to DPP.		Recklessness: D turns their mind to the possibility of danger and proceeds anyway.
25	Can go to a lesser offence (from serious harm to harm). Can't go to assault (different division). Still have to meet elements for that offence.		
<u>Causing Harm/Serious Harm Defences</u>			
22(1)	If the victim lawfully consented to the act causing the harm.		
22(2)	A lawful consent given on behalf of a person who is not of full age and capacity by a parent or guardian will be taken to be the consent of the person for whom the consent was given.		
22(3)	A person may consent to (serious) harm if the nature of the harm and the purpose for which it is inflicted fall within the limits that are generally accepted in the community.	Within the limits that are generally accepted in the community, consent to harm of: <ol style="list-style-type: none"> 1. A religious purpose (circumcision but not female genital mutilation) 2. A genuine therapeutic purpose (donating a kidney) 3. A purpose by which fertility is controlled (vasectomy or tubal ligation) 4. A sporting or recreational activity arising from a risk inherent in the nature of the activity (boxer knocked unconscious) 	
22(4)	If D's conduct lies within the limits of what would be generally accepted in the community as normal incidents of social interaction or community life, this	Sneezing or coughing is accepted in the community as normal incidents of social interaction however, if such acts were deliberately directed at another, this section would not apply.	

	Division does not apply to the conduct unless it is established that D intended to cause harm.		
22(5)	This Division does not apply to D's conduct causing mental harm unless (a) the conduct gave rise to a situation in which the victim's life or physical safety was endangered and the mental harm arose out of that situation; or (b) the defendant's primary purpose was to cause such harm.	Where an examiner fails a student knowing such an act is likely to precipitate a schizophrenic episode, or, an employer legally terminates an employee knowing that this is likely to exacerbate a mental illness and both in fact occur, it is not enough that D acted intentionally knowing that harm would inevitably, probably or possibly result – it would be necessary to establish that the D wanted to cause harm and that desire was the sole or significant motivation for the conduct.	
Assault: s 20		Basic and Aggravated offences exist: s 5AA. Where there is no harm (except ss (4))	
<u>Section</u>	<u>Physical Elements</u>	<u>Fault Elements</u>	<u>Examples</u>
20(1)(a)	<u>Conduct:</u> Apply force (in/directly) to the victim <u>Circumstances:</u> Without consent	Intention	
20(1)(b)	<u>Conduct:</u> Make physical contact (in/directly) with the victim <u>Circumstances:</u> Without consent Knowing that the victim might reasonably object to the conduct (whether or not the victim was aware of the conduct)	Intention Knowledge	
20(1)(c)	<u>Conduct:</u> Threaten (by words or conduct) to apply force (in/directly) to the victim <u>Circumstances:</u> Without consent and; There are reasonable grounds for the victim to believe that (i) the person who makes the threat is in a position to carry out the threat and intends to do so; or (ii) there is a real possibility that the person will carry out the threat.	Intention	(Defence of 'sounding off' where it isn't reasonable to believe that they are going to carry out the threat)
20(1)(d)	<u>Conduct:</u> Does an act <u>Circumstance:</u>	Intention	

	Without consent. The intended purpose of the act is to apply force (in/directly) to the victim		
20(1)(e)	<u>Conduct:</u> Accosts (approaches and addresses someone) or impedes another <u>Circumstance:</u> In a threatening manner	Intention	
20(4)	<u>Conduct:</u> Committing an assault that also causes harm to another	Intention to assault only , not to cause harm. Lower bar than ss 23 and 24, and lower penalties.	<i>Coulter v The Queen</i> : the offence of assault causing harm does not require proof of fault in relation to the harm inflicted. A defendant need not either intend to cause harm or have any foresight that harm might result from their actions.
<u>Defences</u>		Need intention to establish assault before turning to defences.	
20(2)(a)	Conduct is a normal incident of social interaction or community life.		
20(2)(b)	Conduct that is justified or excused by law		(police officer, self-defence)