

TRAINING MATERIAL / READY RECKONER

BHARATIYA NYAYA SANHITA,2023

OF OFFENCES BY OR RELATING TO PUBLIC SERVANTS

CHAPTER- XII

Previous Law : IPC	New Law : BNS	Change in Sections
<u>(CHAPTER- XI)</u>	<u>CHAPTER- XII</u>	In IPC- Sections-166 to 171 In BNS -Sections-198-205

CHAPTER XII

Public servant disobeying law, with intent to cause injury to any person.

198. (Section-166) Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely that he will by such disobedience, cause injury to any person, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Illustration

A, being an officer directed by law to take property in execution, in order to satisfy a decree pronounced in Z's favour by a Court (of Justice), knowingly disobeys that direction of law, with the knowledge that he is likely thereby to cause injury to Z. A has committed the offence defined in this Section.

Classification of offence:

Non-cognizable | Bailable | Magistrate of the first class | Non compoundable

Comparative Analysis/Comments:

Term (**Court of Justice**) is replaced by Court in illustration. Other provisions are similar to IPC.

Public servant disobeying direction under law.

199. (Section-166A) Whoever, being a public servant, —

(a) knowingly disobeys any direction of the law which prohibits him from requiring the attendance at any place of any person for the purpose of investigation into an offence or any other matter; or

(b) knowingly disobeys, to the prejudice of any person, any other direction of the law regulating the manner in which he shall conduct such investigation; or

(c) fails to record any information given to him under sub-Section (1) of **Section 173 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (sub-section (1) of section 154 of the Code of Criminal Procedure, 1973,**) in relation to cognizable offence punishable under **Section 64, Section 65, Section 66, Section 67, Section 68, Section 70, Section 71, Section 74, Section 76, Section 77, Section 79, Section 124, Section 143 or Section 144, (under section 326A, section 326B, section 354, section 354B, section 370, section 370A, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509,**) shall be punished with rigorous imprisonment for a term which shall not be less than six months but which may extend to two years, and shall also be liable to fine.

Classification of offence:

Cognizable | Bailable | Magistrate of the first class | Non-compoundable

Comparative Analysis/Comments:

There is no change from corresponding provisions of IPC.

Cross Reference:

BNSS Section 173 Information in cognizable cases—(1) Every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf: 1 [Provided that if the information is given by the woman against whom an offence under section 124(1), section 124(2), section 74, section 75, section 76, section 77, section 78, section 64, 65(1) [section 66, section 65(2), section 67, section 68, section 70(1), section 70(2)], section 71 or section 79 of the Bharatiya Nyaya Sanhita, 2023 is alleged to have been committed or attempted, then such information shall be recorded, by a woman police officer or any woman officer: Provided further that— (a) in the event that the person against whom an offence under section 74, section 75, section 76, section 77, section 78, section 64 [section 66, section 65(2), section 67, section 68, section 70(1), section 70(2), section section 71 or section 79 of the Bharatiya Nyaya Sanhita, 2023 is alleged to have been committed or attempted, is temporarily or permanently mentally or physically disabled, then such information shall be recorded by a police officer, at the residence of the person seeking to report such offence or at a convenient place of such person's choice, in the presence of an interpreter or a special educator, as the case may be; (b) the recording of such information shall be video graphed; (c) the police officer shall get the statement of the person recorded by a Judicial Magistrate under clause (a) section 183(6) as soon as possible.]

Punishment for non-treatment of victim.

200. (Section-166B) Whoever, being in charge of a hospital, public or private, whether run by the Central Government, the State Government, local bodies or any other person, contravenes the provisions of Section 397 of the Bharatiya Nagarik Suraksha Sanhita, 2023, (Section 357C of the

Code of Criminal Procedure, 1973,) shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

Classification of offence:

Non-cognizable | Bailable | Magistrate of the first class | Non-compoundable

Comparative Analysis/Comments:

There is no change from corresponding provisions of IPC.

Cross Reference:

BNSS Section 397 Treatment of victims.—All hospitals, public or private, whether run by the Central Government, the State Government, local bodies or any other person, shall immediately, provide the first-aid or medical treatment, free of cost, to the victims of any offence covered under, **64, 65, 66, 67, 68, 70 or section 71 or section 124(1) of the Bharatiya Nyaya Sanhita, 2023**, and shall immediately inform the police of such incident.]

Public servant framing an incorrect document with intent to cause injury.

201.(Section-167) Whoever, being a public servant, and being, as such public servant, charged with the preparation or translation of any document or electronic record, frames, prepares or translates that document or electronic record in a manner which he knows or believes to be incorrect, intending thereby to cause or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Classification of offence:

Cognizable | Bailable | Magistrate of the first class | Non-compoundable

Comparative Analysis/Comments:

There is no change from corresponding provisions of IPC.

Public servant unlawfully engaging in trade.

202. (Section-168) Whoever, being a public servant, and being legally bound as such public servant not to engage in trade, engages in trade, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both **or with community service**.

Classification of offence:

Non-cognizable | Bailable | Magistrate of the first class | Non-compoundable

Comparative Analysis/Comments:

A completely new category of punishment namely community service is introduced.

Public servant unlawfully buying or bidding for property.

203. (Section-169) Whoever, being a public servant, and being legally bound as such public servant, not to purchase or bid for certain property, purchases or bids for that property, either in his own name or in the name of another, or jointly, or in shares with others, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both; and the property, if purchased, shall be confiscated.

Classification of offence:

Non-cognizable | Bailable | Magistrate of the first class | Non-compoundable

Comparative Analysis/Comments:

There is no change from corresponding provisions of IPC.

Personating a public servant.

204. (Section-170) Whoever pretends to hold any particular office as a public servant, knowing that he does not hold such office or falsely personates any other person holding such office, and in such assumed character does or attempts to do any act under colour of such office, shall be punished with imprisonment of either description for a term **which shall not be less than six months but** which may extend to **three years (two years, or with fine, or with both.,)** and with fine.

Classification of offence:

Cognizable | Non-bailable | Any Magistrate | Non-compoundable

Comparative Analysis/Comments:

Under Section 170 of IPC, there was no specified minimum term, and the maximum term was two years. Sec 204 BNS establishes a minimum term of imprisonment of not less than six month but which may extend to three years, in addition to a fine.

Wearing garb or carrying token used by public servant with fraudulent intent.

205.(Section-171) Whoever, not belonging to a certain class of public servants, wears any garb or carries any token resembling any garb or token used by that class of public servants, with the intention that it may be believed, or with the knowledge that it is likely to be believed, that he belongs to that class of public servants, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to **(two hundred rupees) five thousand rupees**, or with both.

Classification of offence:

Cognizable | Bailable | Any Magistrate | Non-compoundable

Comparative Analysis/Comments:

In IPC, fine was two hundred rupees which is now increased to five thousand rupees.

Cross Reference:

There are some other penal provisions in BNS which are related to public servants. Brief description is as under:

Section	Offence	Punishment	Cognizable/ Bailable/ Trial Court/Compoundable
156 (128 IPC)	Public servant voluntarily allowing prisoner of state or war in his custody to escape.	Imprisonment for life, or imprisonment for 10 years and fine.	Cognizable Non-bailable Court of Session Non-compoundable
157 (129 IPC)	Public servant negligently suffering prisoner of State or war in his custody to escape.	Simple imprisonment for 3 years and fine.	Cognizable Bailable Magistrate of the first class Non-compoundable

Section 218 Bharatiya Nagarik Suraksha Sanhita stipulates the procedure for prosecution of judges and public servants. Corresponding section of CrPC was **Section 197**. This provision stipulates that when public servants being accused of any offence alleged to have been committed by him while acting for purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction save as otherwise provided in the Lokpal and Lokayuktas Act, 2013 (1 of 2014).

Ready Reckoner:

Section	Offence	Punishment	Cognizable / Bailable / Trial Court /	Remark
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			Compoundable	
198 IPC 166	Public servant disobeying direction of the law with intent to cause injury to any person.	Simple imprisonment for one year, or fine, or both.	Non-cognizable/ Bailable/ Magistrate of the first class/Non compoundable	Term (Court of Justice) is replaced by Court in illustration. Other provisions are similar to IPC.
199 IPC 166A	Public servant disobeying direction under law.	Rigorous imprisonment for not less than six months which may extend to two years and fine.	Cognizable/ Bailable/ Magistrate of the first class/Non compoundable	No change
200 IPC 166B	Non-treatment of victim by hospital.	Imprisonment for one year, or fine, or both.	Non-cognizable / Bailable / Magistrate of the first class / Non-compoundable	No change
201 IPC 167	Public servant framing an incorrect document with intent to cause injury.	Imprisonment for three years, or fine, or both	Cognizable / Bailable / Magistrate of the first class / Non-compoundable	No change
202 IPC 168	Public servant unlawfully engaging in trade.	Simple imprisonment for one year, or fine, or both, or community service.	Non-cognizable / Bailable / Magistrate of the first class / Non-compoundable	A completely new category of punishment namely community service is introduced.
203 IPC 169	Public servant unlawfully buying or	Simple imprisonment for two years, or fine,	Non-cognizable / Bailable / Magistrate of the	No change

	bidding for property.	or both and confiscation of property, if purchased.	first class / Non-compoundable	
204 IPC 170	Personating a public servant.	Imprisonment for not less than six months but which may extend to three years and fine.	Cognizable/ Non-bailable/ Any Magistrate/ Non compoundable	Under Section 170 of IPC, there was no specified minimum term, and the maximum term was two years. Sec 204 BNS establishes a minimum term of imprisonment of not less than six month but which may extend to three years, in addition to a fine.
205 IPC 171	Wearing garb or carrying token used by public servant with fraudulent intent.	Imprisonment for three months, or fine of <i>(two hundred rupees)</i> five thousand rupees, or both.	Cognizable/ Bailable/ Any Magistrate/ Non compoundable	In IPC, fine was two hundred rupees which is now increased to five thousand rupees.