



I assent,

CUTHBERT M SEBASTIAN

Governor-General.

19th October, 2012.

SAINT CHRISTOPHER AND NEVIS

AN ACT to provide for the establishment of a programme for the protection of certain witnesses and certain other persons and for related matters.

[Published 19th October 2012, Extra-Ordinary Gazette No. 48A of 2012.]

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the National Assembly of Saint Christopher and Nevis, and by the authority of the same as follows:

PART I **Preliminary**

1. Short title and commencement.

This Act may be cited as the Justice Protection Act, 2012 and shall come into operation on a day fixed by the Minister by Notice published in the *Gazette*.

2. Interpretation.

In this Act,

“Administrative Centre” or “Centre” means the department or Ministry charged with responsibility for the development, management and maintenance of the Justice Protection Programme;

“Agreement” means the Agreement Establishing the Regional Justice Protection Programme, signed at Port-of-Spain on July 7, 1999;

“approved authority” or “authority” means

- (a) the Attorney General;
- (b) the Director of Public Prosecutions;
- (c) the Administrative Centre;
- (d) the Commissioner of Police;
- (e) any other person or body that the Minister may, from time to time, designate as an approved authority;

“associate” means a person including a family member of that person who, by virtue of his relationship or association with a participant or prospective participant, may be considered for protection or assistance or both, under the Justice Protection Programme;

“Contracting Party” means a Party to the Agreement;

“Investigative Agency” means the Department charged with the functions set out in section 8;

“Justice Protection Programme” or “Programme” means the Justice Protection Programme established under section 3;

“Minister” means the Minister to whom is assigned the responsibility for Justice;

“participant” includes witnesses, jurors, judicial officers, legal officers, law enforcement personnel, associates of such persons or any other persons to whom protection or assistance or both is given under the Justice Protection Programme;

“protection or assistance or both” includes physical security, financial assistance, medical assistance and legal assistance;

“Protective Agency” means the Department charged with the functions set out in section 10;

“risk assessment” means an evaluation of the risk or danger which a participant is likely to pose for the receiving community, having regard to the matters specified in paragraphs (a), (d) and (e) of the definition of “threat assessment” and any other factor considered relevant in a particular case;

“threat assessment” means an evaluation of the danger to a prospective participant based on, but not limited to information on

- (a) persons who are the subject of judicial or administrative proceedings concerning the case, in relation to which the prospective participant has given evidence or is required to give evidence;
- (b) any criminal organization interested in the relevant proceedings;
- (c) the nature of the threat to the prospective participant;
- (d) the names and other identifying data of all persons who are likely to pose a danger to the prospective participant;
- (e) where appropriate, the prospective participant’s association with persons referred to in paragraph (a) or his involvement in the illegal activity giving rise to the proceedings referred to in that paragraph;
- (f) the immediacy of the threat;

“witness” means a person who has given, is obliged to give or has agreed to give a statement or evidence or both

- (a) in relation to a crime that has been committed or in respect of which

there are reasonable grounds to believe has been committed or will be committed;

- (b) to an approved authority in relation to a crime that has been committed or in respect of which there are reasonable grounds to believe has been committed or will be committed;
- (c) in a criminal trial;
- (d) in any civil proceedings.

PART II

The Justice Protection Programme

3. Establishment of Justice Protection Programme and Agencies.

(1) The Minister shall establish a programme to be known as the Justice Protection Programme, for the purpose of providing to participants, subject to this Act, protection or assistance or both.

(2) For the purposes of administering the Programme, the Minister shall, by regulations made under section 25, provide for the establishment of the following Agencies:

- (a) an Administrative Centre;
- (b) an Investigative Agency; and
- (c) a Protective Agency.

4. Functions of the Administrative Centre.

(1) Subject to this Act, the Administrative Centre shall develop, manage and maintain the Justice Protection Programme and shall be responsible for deciding whether a prospective participant is to be afforded protection or assistance or both, under the Programme.

(2) In performing its functions under this Act, the Centre shall

- (a) liaise with other approved authorities and with Administrative Centres of other Contracting Parties;
- (b) liaise where necessary, with appropriate authorities in the territories of non-Contracting Parties;
- (c) determine the participants in the Justice Protection Programme;
- (d) determine after consultation with the Investigative Agency and the Director of Public Prosecutions, the level and duration of protection or assistance for a prospective participant, based on the assessments referred to in subsection (3)(a);
- (e) obtain such information as may be required to determine
 - (i) the financial implications of admitting the prospective participants to the Programme; and
 - (ii) the actual or potential civil and criminal liability of the prospective participant;

- (f) require the prospective participant to conclude a Memorandum of Understanding with the Centre, detailing the terms and conditions of his participation in the Programme;
- (g) arrange for the provision of safe-houses on the written recommendations of the Investigative Agency or the Protective Agency on the basis of threat and risk assessments;
- (h) develop guidelines for the effective operation of the Programme;
- (i) establish budgetary requirements of the Programme;
- (j) make payments in connection with the protection and assistance provided under this Act;
- (k) take cognizance of the high cost and complexity of providing adequate protection for participants;
- (l) co-ordinate and relay to approved authorities of Contracting Parties, relevant information on threat and risk assessments and other related matters.

(3)In the performance of its functions in accordance with subsection (2)(c), the Administrative Centre shall

- (a) in relation to criminal matters, make a determination on the basis of written assessments received from
 - (i) the Investigative Agency;
 - (ii) the Director of Public Prosecutions; and
 - (iii) the Protective Agency;
- (b) in relation to civil matters and inquiries under the Commissions of Inquiry Act Cap. 3.03, make a determination on the basis of written assessments received from
 - (i) the Investigative Agency;
 - (ii) the Attorney General; and
 - (iii) the Protective Agency.

(4)Subject to subsection (3), the Administrative Centre shall, in deciding whether to include a prospective participant in the Programme, have regard to

- (a) any criminal record of the prospective participant, particularly in respect of crimes of violence, and whether that record indicates a risk to the public if he is included in the Programme;
- (b) the results of any medical, psychological or psychiatric examination or evaluation of the prospective participant, conducted to determine his suitability for inclusion in the Programme;
- (c) the seriousness of the offence to which any relevant evidence or statement relates;
- (d) the nature and importance of any relevant evidence or statement;

- (e) whether there are viable alternative methods of protecting or assisting the prospective participant;
 - (f) the nature of the perceived danger to the prospective participant;
 - (g) the nature of the prospective participant's relationship with other prospective participants being assessed for inclusion in the Programme;
 - (h) the expected duration of the protection or assistance to be provided; and
 - (i) any other matters that the Centre considers relevant.
- (5)Action which may be taken by the Administrative Centre to facilitate the safety and security of participants may include the following
- (a) providing any documents necessary
 - (i) to establish a new identity for the participant; and
 - (ii) to protect the participant;
 - (b) permitting a participant to use an assumed name in carrying-out his duties in relation to the Programme and to carry documentation supporting the assumed name;
 - (c) providing payments to or for the participant for the purpose of
 - (i) meeting his reasonable living expenses including, where appropriate, living expenses of his family; and
 - (ii) providing, whether directly or indirectly, other reasonable financial assistance;
 - (d) providing payments to the participant for the purpose of meeting costs associated with relocation;
 - (e) providing assistance to the participant in obtaining employment, access to education and health care;
 - (f) providing other assistance to the participant with a view to ensuring that the participant becomes self-sustaining.
- (6) Action may be taken by the Administrative Centre to facilitate the training of various persons within the court system who may come into contact with vulnerable and other witnesses.

5. Cases to be considered for protection.

- (1) The Administrative Centre may offer protection or assistance or both under the Justice Protection Programme in respect of the offences set out in the First Schedule.
- (2) The Minister may by Order, after consultation with the Director of Public Prosecutions and the Commissioner of Police, amend the First Schedule.

6. Disclosure of certain information to Administrative Centre.

- (1).....Notwithstanding section 4(3), the Administrative Centre shall not include a prospective participant in the Programme unless

- (a) it is satisfied that the person has provided the Centre with the information required of him under subsection (2); and
- (b) it receives such other information as may be required in the case or under this Act.

(2) A prospective participant shall disclose to the Centre

- (a) details of all of his outstanding legal obligations;
- (b) details of all of his outstanding debts including amounts outstanding in respect of any tax;
- (c) details of his criminal history;
- (d) details of any civil proceedings that have been instituted by or against him;
- (e) details of
 - (i) any cash balances in bank accounts; and
 - (ii) property, real or personal, held anywhere by him in his own name or jointly or severally with any other person or persons as the case may be;
- (f) whether any of his property, real or personal, is liable to forfeiture or confiscation under any other law;
- (g) details of any enterprise whatsoever, in which he is involved, that may yield him a monetary return;
- (h) details of receivables and all sources of income;
- (i) details of his general medical condition;
- (j) details of any dependents and related obligations;
- (k) details of any court order relating to sentences imposed on him or to which he is subject in relation to criminal prosecutions;
- (l) details of any relevant court orders or arrangements relating to his custody of or access to children; and
- (m) details of any arrangements that he has made for
 - (i) the service of documents on him;
 - (ii) representation in proceedings in any court;
 - (iii) enforcement of judgments in his favour; or
 - (iv) compliance with the enforcement of judgments against him.

(3) The Centre shall make such other inquiries and investigations as it considers necessary for the purpose of assessing whether the prospective participant should be included in the Programme.

7. Inclusion of prospective participants in programme.

The Administrative Centre shall not include a prospective participant in the Programme unless

- (a) subject to section 9, he applies in the prescribed form to be included;
- (b) the Centre is satisfied that he understands the implications of being included in the Programme;
- (c) he understands and signs a Memorandum of Understanding in accordance with the provisions of this Act or if he is under eighteen years of age or otherwise lacks legal capacity to sign the Memorandum
 - (i) it is signed by a parent or guardian; or
 - (ii) if there is no such parent or guardian, it is signed by a person appointed by the High Court to be his guardian.

8. Functions of the Investigative Agency.

In relation to the possible inclusion of a prospective participant in the Justice Protection Programme, the Investigative Agency

- (a) shall make investigations and submit to the Administrative Centre, the application referred to in section 7(a) which shall be accompanied by the following documents prepared by the Investigative Agency:
 - (i) an assessment of that application;
 - (ii) a threat assessment including a prison report where the prospective participant is in prison; and
 - (iii) a risk assessment;
- (b) shall provide protection for the prospective participant in the period prior to the determination referred to in section 4(3)(a); and
- (c) may, in a case of emergency, apply to the Administrative Centre for provisional entry into the Programme by the prospective participant, prior to the determination referred to in paragraph (b).

9. Director of Public Prosecutions to submit applications.

(1) In relation to criminal matters, the Director of Public Prosecutions shall, where he is satisfied that the circumstances so warrant, prepare and submit an application in the prescribed form, to the Administrative Centre for a prospective applicant's entry into the Justice Protection Programme.

(2) An application referred to in subsection (1) shall be made after the Director of Public Prosecutions has

- (a) in the case of a prospective participant who is likely to be a witness
 - (i) determined that the testimony of the prospective participant is credible and essential; and
 - (ii) formed the opinion that the prospective participant can be relied upon to give the testimony;
- (b) determined that a juror, judicial officer, legal officer, law enforcement officer or any of their associates, is in need of protection or assistance or both.

- (3) An application under this section shall be accompanied by detailed information on
 - (a) the significance of the case;
 - (b) the prospective defendant;
 - (c) the testimony of the prospective participant; and
 - (d) the anticipated benefits of a successful prosecution.

(4) For the purposes of subsection (2)(b), “legal officer” includes an attorney-at-law in private practice.

10. Functions of the Protective Agency.

- (1) For the purposes of this Act, the Protective Agency shall
 - (a) submit a report to the Centre on the suitability of a prospective participant for entry into the Justice Protection Programme and for that purpose shall
 - (i) interview the prospective participant with a view to establishing his suitability for entry into the Programme;
 - (ii) examine the threat and risk assessments submitted to the Administrative Centre pursuant to section 8(a); and
 - (iii) require a prospective participant or a participant, as the case may be, to undergo, for the purpose of determining his physical and mental health, medical tests or examinations and psychological or psychiatric evaluations and to authorize the results to be made available to the Protective Agency;
 - (b) protect participants and persons accorded provisional entry pursuant to section 8(c);
 - (c) relocate participants when it is absolutely necessary to do so; and
 - (d) carry out periodic reviews of threat and risk assessments.

PART III

Memorandum of Understanding

11. Memorandum of Understanding.

(1) The Administrative Centre shall, subject to the approval of the Minister, prepare a Memorandum of Understanding which shall, subject to subsection (2), contain the matters set out in the Second Schedule.

(2) The Administrative Centre, may, where it considers necessary in a particular case, include any other matter in a Memorandum of Understanding.

- (3) The Memorandum of Understanding shall be signed
 - (a) by the prospective participant; or
 - (b) where the circumstances so require, by the person referred to in section 8(c), in the presence of two witnesses, one of whom may be the participant’s attorney-at-law.

(4) A prospective participant is included in the Justice Protection Programme when the

Memorandum of Understanding is countersigned by the person authorized by the Minister for the purpose.

- (5) The Memorandum of Understanding may be varied by the Minister
 - (a) after consultation with the Administrative Centre and with the participant's consent; or
 - (b) upon application by the participant for a variation.

(6) The variation referred to in subsection (5) shall take effect on the day on which the participant receives written notice thereof.

(7) Where a participant remains in the Programme upon attaining the age of eighteen years, the Administrative Centre shall require him to sign a Memorandum of Understanding on his own behalf upon his attaining that age.

PART IV **Register of Participants**

12. Confidential Register of participants.

(1) The Administrative Centre shall maintain a confidential register of participants which shall be accorded a security classification not below "Top Secret".

(2) The confidential register may be maintained by electronic means.

(3) The Centre shall include in the confidential register, the following details in respect of each participant

- (a) the participant's name and assumed names, if any;
- (b) the participant's new name where he has been provided with a new identity under the Justice Protection Programme;
- (c) the participant's address;
- (d) details of any offences for which the participant has been convicted;
- (e) the dates on which the participant entered and left the Programme;
- (f) the matter giving rise to his entry into the Programme; and
- (g) details of any approval or refusal pursuant to section 15(1).

(4) The Centre shall keep the following documents (hereinafter referred to as "ancillary documents") along with the confidential register

- (a) the original of each Memorandum of Understanding;
- (b) in respect of new identities, copies of each new document issued under the Programme;
- (c) the original of each approval granted by the Centre pursuant to section 15(1); and
- (d) any documents returned to the Centre pursuant to section 17(5).

13. Access to Confidential Register.

(1) Subject to this section, the Administrative Centre shall be the only approved authority that shall have full access to the confidential register and to the ancillary documents referred to in section 12.

(2) The Centre may, if it is of the opinion that it is in the interest of the due administration of justice to do so, allow another approved authority to have access to information contained in the confidential register and the ancillary documents.

(3) Where the Centre allows an approved authority access to information contained in the confidential register and the ancillary documents, the Centre shall notify the other approved authorities of

- (a) the identity of the authority to whom the access was allowed;
- (b) the information to which the authority was allowed access;
- (c) the reasons for allowing access; and
- (d) the date and time of such access.

PART V**Protection under the Justice Protection Programme****14. Rights and obligations.**

(1) Where a participant is entitled to exercise a right, is under an obligation or is subject to any restriction, the appropriate approved authority shall take such steps as are reasonably practicable to ensure that

- (a) the right or obligation is dealt with according to law; and
- (b) the participant complies with the restriction.

(2) The steps referred to in subsection (1) may include

- (a) providing protection for the participant while the participant is attending court; and
- (b) notifying a party or possible party to legal proceedings, that the authority shall accept process issued by a court or tribunal on behalf of the participant, and
- (c) nominating one of its officers for the purpose.

(3) Where the authority is satisfied that a participant who has been provided with a new identity under the Justice Protection Programme is using the new identity to

- (a) avoid obligations that were incurred before the new identity was established; and
- (b) avoid complying with restrictions that were imposed on the participant before the new identity was established,

the authority shall give notice in writing to the participant stating that unless he satisfies the authority that the obligations are dealt with according to law or the restriction be complied with, the Authority shall take such action as it considers necessary to ensure performance

of the obligations or compliance with the restrictions.

(4) The action referred to in subsection (3) may include informing a person who is seeking to enforce rights against the participant, of the details of any property, real or personal, owned by the participant under his former identity.

15. Non-disclosure of former identity.

(1) A participant who has been provided with a new identity under the Justice Protection Programme shall not disclose his former identity unless he has obtained the prior written approval of the Administrative Centre.

(2) Notwithstanding subsection (1) and any other written law, the participant shall in any proceedings, be entitled to claim that his new identity is his only identity.

(3) In this section, “participant” includes a person who is no longer participating in the Programme but retains his new identity.

16. Cessation of protection and assistance.

(1) Protection or assistance provided under the Justice Protection Programme to a participant

- (a) shall be terminated by the Centre if the participant requests in writing that it be terminated; or
- (b) may be terminated by the Centre if
 - (i) the participant deliberately breaches a term of the Memorandum of Understanding;
 - (ii) the Centre discovers that the participant had knowingly given information to the Centre that was false or misleading in a material particular;
 - (iii) the participant’s conduct is, in the opinion of the Centre, likely to compromise the integrity of the Programme;
 - (iv) the circumstances that gave rise to the need for protection or assistance for the participant, cease to exist;
 - (v) the participant deliberately breaches an undertaking, including an undertaking to give evidence, in relation to a matter, material and relevant to the Programme;
 - (vi) the participant refuses or fails to sign a new Memorandum of Understanding when required to do so under section 11(7); or
 - (vii) there is, in the opinion of the Centre, no reasonable justification for the participant to remain in the Programme.

(2) Where the Centre decides under subsection (1)(b) to terminate protection or assistance or both under the Programme, the Centre shall

- (a) take reasonable steps to notify the participant of the decision; and
- (b) notify the other approved authorities of the decision.

(3) A participant who receives such a notification may, within twenty-eight days after

receiving the notice, apply in writing to the Minister for a review of the decision of the Centre.

(4) Where a participant applies for a review of the decision of the Centre, the Minister shall

- (a) allow the participant a reasonable opportunity to state his case;
- (b) review the decision of the Centre and
 - (i) confirm or reverse it; or
 - (ii) vary it with the consent of the participant, and inform the participant, in writing, of the decision.

(5) A decision of the Centre pursuant to subsection (1)(b) to terminate protection or assistance or both, shall be effected as follows

- (a) where the participant's whereabouts are unknown and the Centre has taken reasonable steps to notify the participant of the decision but has been unable to do so or where, in the opinion of the Minister, the participant is avoiding notification, the protection shall be terminated at the end of the period of twenty-eight days after those steps were commenced;
- (b) where the participant does not apply for a review of the decision in accordance with subsection (3), termination shall take effect at the end of the period of twenty-eight days after the participant receives the notification; or
- (c) if the participant applies for a review of the decision in accordance with subsection (3) and the Minister notifies the participant that the decision of the Centre is confirmed, termination shall take effect from the date of receipt of the notification.

17. Restoration of former identity.

(1) Where a participant has been provided with a new identity under the Justice Protection Programme and protection or assistance to the participant is terminated, the Administrative Centre may, if it considers it appropriate to do so, take such action as is necessary to restore the former participant's former identity.

(2) The Centre shall take reasonable steps to notify the former participant of its decision under subsection (1).

(3) Where the Centre proposes to take action to restore the identity of the former participant, he may, within twenty-eight days after receiving the notification, apply in writing to the Minister for a review of the decision of the Centre.

(4) Where an application is made, the Minister shall

- (a) before making a decision, give the former participant a reasonable opportunity to state his case; and
- (b) review the decision of the Centre and confirm or reverse it, and inform the former participant, in writing, of the decision.

(5) Where the Centre takes action under this section to restore the identity of the former participant and the Centre requests the return of all documents that were provided in relation to the new identity, he shall return those documents to the Centre within seven days of his receipt of the request.

(6) Notwithstanding subsection (4), the Minister may transfer a matter brought under that subsection to the Appeals Tribunal referred to in section 29.

18. Provision of information to an approved authority.

Where another approved authority notifies the Administrative Centre that participant who has been provided with a new identity or has been relocated, is under investigation for, or has been arrested or charged with an offence, the maximum penalty for which is or includes imprisonment for a period of more than one year, the Centre may

- (a) provide the appropriate approved authority with
 - (i) the participant's new identity;
 - (ii) the participant's criminal record and fingerprints; and
 - (iii) such other information relating to the Justice Protection Programme as the Centre considers appropriate in the circumstances; and
- (b) cause the participant to appear before the appropriate authority.

PART VI Miscellaneous

19. Officers and staff.

(1) The Minister may prescribe certain standards in relation to the character, integrity, competence and other qualifications for officers and staff of the Administrative Centre, the Investigative Agency and the Protective Agency.

(2) The Officers and staff of the Administrative Centre, the Investigative Agency and the Protective Agency shall swear an oath of non-disclosure in the form prescribed by the Minister in relation to confidential information obtained during the course of the performance of their duties under this Act.

(3) Officers of the Administrative Centre, the Investigative Agency and the Protective Agency performing functions in relation to the Programme, shall not be liable to any action, suit or other proceedings in respect of an act done or omitted to be done in good faith in the exercise or purported exercise of a power conferred by this Act.

(4) The Administrative Centre, the Investigative Agency or the Protective Agency may secure the services of specialized personnel to deal with child witnesses, victims of sexual offences or other vulnerable witnesses.

20. Offences.

- (1) A person who, without lawful authority, discloses information
 - (a) about the identity or location of a person who is or has been a participant;
 - (b) that compromises the safety or security of a participant or the integrity of the

Programme,

commits an offence.

(2) A person who is or has been a participant or a person who has undergone assessment for inclusion in the Justice Protection Programme and discloses

- (a) the fact of such participation or assessment;
- (b) information as to the way in which the Programme operates;
- (c) information about any officer of the Administrative Centre who is or has been involved in the Programme;
- (d) the fact that he has signed a Memorandum of Understanding; or
- (e) any details of a Memorandum of Understanding that he has signed,

commits an offence unless he has been authorized by the Centre to make the disclosure.

(3) A person who

- (a) offers a bribe or other inducement to any person employed in the administration of this Act, for the purpose of obtaining information which could prejudice the safety or security of a participant or the integrity of the Programme; or
- (b) being a person employed in the administration of this Act, accepts any bribe or other inducement in exchange for the information referred to in paragraph (a),

commits an offence.

(4) A person who commits an offence under subsection (1), (2) or (3) is liable on summary conviction to a fine of fifteen thousand dollars and to imprisonment for ten years or both.

(5) A person who, without reasonable excuse fails to return the documents referred to in section 17(5) in accordance with that section, commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for three years or both.

21. Officers not required to disclose information.

(1) Subject to subsection (2), an officer of the Administrative Centre shall not be required to

- (a) produce in any court or to another approved authority, any document that has come into the custody or control of the Centre in the course of or because of the performance of functions or duties under this Act; or
- (b) divulge, communicate or produce to or before such a body, any matter or thing that has come to the notice of the officer in the performance of functions or duties under this Act, except where it is necessary to do so for the purpose of carrying the provisions of this Act into effect.

(2) Where, in the determination of legal proceedings, it becomes necessary for the Judge or Magistrate presiding, to be advised of a participant's location and circumstances, an officer referred to in subsection (1) shall disclose the relevant information to the Judge or Magistrate in chambers but the officer shall not disclose the information if any person

other than the Judge or Magistrate is present.

(3) The Judge or Magistrate shall not disclose any information received under subsection (2) otherwise than in accordance with this Act.

22. Requirement where participant becomes a witness in other criminal proceedings.

(1) Where

- (a) a person is provided with a new identity under the Justice Protection Programme;
- (b) the person retains that identity, whether or not he remains a participant; and
- (c) the person is to appear as a witness in criminal proceedings under that identity,

the person shall notify the Administrative Centre that he is to appear as a witness in such proceedings.

(2) After being notified under subsection (1), the Centre may take any action it considers appropriate in the circumstances, except that where the person has a criminal record, the Centre shall disclose that criminal record to the court, the prosecutor and the accused person or the accused person's legal representative.

23. Identity of participant not to be disclosed.

If in any proceedings in any court, the new identity of a person who is a participant is in issue or may be disclosed, the court shall, unless it considers that the interests of justice require otherwise

- (a) hold that part of the proceedings that relate to the identity of the participant in camera; and
- (b) make such order restricting the publication of evidence given before the court as in its opinion will ensure that the identity of the participant is not disclosed.

24. Annual reports.

(1) Subject to subsection (2), the Administrative Centre shall submit to the Board of Governors referred to in Article 5 of the Agreement, annual reports on the general operation, performance and effectiveness of the Justice Protection Programme.

(2) A report under subsection (1) shall not contain any matter which in the opinion of the Centre, is likely to prejudice the effectiveness or security of the Programme.

(3) The Centre shall submit annual reports to the Minister on the general operation, performance and effectiveness of the Justice Protection Programme and an annual report shall not contain any matter which is likely to prejudice the effectiveness or security of the Programme.

(4) The Minister shall cause a copy of the report submitted to him pursuant to subsection (3), to be laid before the National Assembly promptly after he has received it.

25. Regulations.

(1) The Minister may make Regulations prescribing all matters which are required or permitted to be prescribed or necessary or convenient to be prescribed for carrying out or

giving effect to the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations

- (a) respecting the establishment of new identities for participants;
- (b) respecting specific procedures in relation to vulnerable witnesses.

(3) Regulations made under subsection (2) are subject to negative resolution of the National Assembly.

26. Funding for Justice Protection Programme.

(1) For the proper discharge of its functions, expenses incurred by the Justice Protection Programme shall be a charge on the Consolidated Fund.

(2) Notwithstanding subsection (1), the Justice Protection Programme may receive funding or donations from donor agencies or other philanthropic organisations.

27. Accounts and audit.

(1) The Administrative Centre shall keep proper accounts and other records in relation to the business of the Justice Protection Programme, which accounts shall be prepared according to accepted international accounting standards.

(2) The Administrative Centre shall prepare annually a financial statement for that financial year.

(3) The accounts for the Justice Protection Programme shall be audited annually by the Director of Audit or by such other auditor as the Director of Audit may appoint.

(4) The members of staff of the Administrative Centre shall allow the Director of Audit, or other auditor appointed by the Director of Audit, access to all financial books, financial documents or financial resources of the Justice Protection Programme or any information within their knowledge in relation to financial matters which can be made public without detriment to the interest of the Justice Protection Programme.

28. Appeals

The Minister may prescribe the decisions under the Justice Protection Programme which may be the subject matter of an appeal and the terms and conditions for a prospective participant or a participant in the programme to make an appeal to such a decision.

29. Appeals Tribunal.

(1) For the purposes of determining appeals under this Act, the Minister may established an Appeals Tribunal.

(2) The constitution, functions and other related matters in relation to the Appeals Tribunal may be prescribed by the Minister.

FIRST SCHEDULE

(Section 5)

OFFENCES WHICH MAY GIVE RISE TO PROTECTION UNDER THE JUSTICE PROTECTION PROGRAMME

1. Murder
2. Manslaughter
3. Treason
4. Kidnapping
5. Abduction
6. Robbery
7. Blackmail
8. Fraud
9. Hijacking
10. Extortion
11. Counterfeiting
12. Corruption
13. Arson
14. Sedition
15. Aggravated assault
16. Any sexual offence
17. Any drug trafficking offence
18. Any domestic violence offence
19. An offence contrary to the provisions of the Proceeds of Crime Act Cap. 4.28
20. An offence contrary to the provisions of the Drug (Prevention and Abatement of the Misuse and Abuse of Drugs) Act Cap. 9.08
21. An offence contrary to the provisions of the Firearms Act Cap 19.05
22. An offence contrary to the provisions of the Organised Crime (Prevention and Control) Act Cap. 4.22
23. An offence contrary to the provisions of the Gang (Prohibition and Prevention) Act, No. 24 of 2011
24. An offence contrary to the provisions of the Electronic Crimes Act, No. 27 of 2009

SECOND SCHEDULE

(Section 11)

CONTENTS OF MEMORANDUM OF UNDERSTANDING

1. The basis on which a prospective participant is to be included in the Justice Protection Programme
2. The details of the protection or assistance that is to be provided
3. The terms and conditions upon which protection or assistance shall be provided to the prospective participant
4. An undertaking that the participant will not compromise, directly or indirectly, the security of, or any other aspect of the protection or assistance, or both, being provided

- 5. An undertaking that the participant will comply with all reasonable directions of the Centre in relation to the protection or assistance, or both, provided to him
- 6. An undertaking that the prospective participant or participants, as the case may be, shall, if required to do so by the Administrative Centre
 - (a) undergo medical tests or examinations and psychological or psychiatric evaluations by medical officers approved by the Centre for those purposes;
 - (b) undergo drug or alcohol counselling or treatment, and authorize that the results be made available to the Centre
- 7. A list of all outstanding legal obligations and a statement by the prospective participant, of the arrangements which have been made to meet those obligations
- 8. A financial support arrangement
- 9. An undertaking by the prospective participant to disclose to the Centre, details of any criminal charges that are made against him, and any civil or bankruptcy proceedings that are instituted against him after his inclusion in the Programme
- 10. A provision to the effect that protection or assistance under the Programme may be terminated if the prospective participant breaches a term of the Memorandum of Understanding.

CURTIS A. MARTIN

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Speaker

Passed by the National Assembly this 4th day of October, 2012.

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JOSÉ LLOYD
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*Clerk of the
National Assembly*