



# ST CHRISTOPHER AND NEVIS

## CHAPTER 4.22

# ORGANISED CRIME (PREVENTION AND CONTROL) ACT

and Subsidiary Legislation

**Revised Edition**

showing the law as at 31<sup>st</sup> December, 2009

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Law Revision Act, Cap. 1.03

This edition contains a consolidation of the following laws:

**Organised Crime (Prevention and Control) Act**

**Act 22 of 2002 in force 6<sup>th</sup> December, 2002**

**Amended by Act 11 of 2008**

**CHAPTER 4.22****ORGANISED CRIME (PREVENTION AND CONTROL) ACT****ARRANGEMENT OF SECTIONS**

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## CHAPTER 4.22

### ORGANISED CRIME (PREVENTION AND CONTROL) ACT

AN ACT to give effect to the Convention Against Transnational Organised Crime.

#### PART I – PRELIMINARY

1. **Short title.**

This Act may be cited as the Organised Crime (Prevention and Control) Act.

2. **Interpretation.**

In this Act,

“benefit” means money, valuable consideration, office or employment;

“Fund” means the Criminal Assets Recovery Fund established in Part IV;

“judicial officer” means a judge or a magistrate;

“Minister” means the Minister responsible for legal affairs;

“organised criminal group” or “group” means a structured group that:

- (a) consists of three or more persons in or outside of Saint Christopher and Nevis; and
- (b) has as its primary purpose the commission of serious offences in order to obtain direct or indirect material or financial benefit for the group or any of the members of the group,

but does not include a group that is formed randomly for the commission of a single offence;

“public office” means any office of employment in the public service or any person or body performing a public duty;

“public officer” means the holder of any public office and includes any person appointed to act in any such office;

“related person” means a person who is a member of the family or household of a justice system, participant or a witness;

“serious crime” means an offence

- (a) for which the sentence is fixed by law; or
- (b) for which a person may, under or by virtue of any enactment, be sentenced to a term of imprisonment for at least four years.

**PART II – ORGANISED CRIME, CORRUPTION AND OBSTRUCTION  
OF JUSTICE****3. Organised criminal activity.**

- (1) A person engages in organised criminal activity where the person
  - (a) acts in concert with other persons in the commission of a serious offence for the purpose of obtaining a material or financial benefit;
  - (b) with knowledge of the purpose or general criminal activity of an organised criminal group engages in conduct preliminary to or takes part in:
    - (i) the criminal activity of the organised criminal group;
    - (ii) other activities which the person knows will contribute to a criminal purpose;
  - (c) being one of the persons who is a member of a criminal organisation, knowingly instructs any person to commit an offence for the benefit of, at the direction of, or in association with, the criminal organisation;
  - (d) knowingly advises, causes, encourages or recruits another person to become a member of an organised criminal group.
- (2) The offence referred to in subsection (1) occurs only where it is committed
  - (a) in more than one country;
  - (b) in one country but a substantial part in the preparation, planning, direction or control takes place in another country;
  - (c) in one country but involves an organised criminal group that engages in criminal activities in more than one country; or
  - (d) in one country but has substantial effect in another country.

**4. Corruption.**

A person engages in corruption where

- (a) the person directly or indirectly promises, offers or gives to a public officer a benefit;
- (b) the person, being a public officer, solicits or accepts whether directly or indirectly a benefit for himself or herself or another;

in order to act or refrain from acting in his or her official capacity.

**5. Obstruction of justice re a witness.**

(1) A person commits the offence of obstruction of justice where, in relation to a witness, judicial or police officer in criminal proceedings to which this Act applies, the person

- (a) uses physical force or threats;
- (b) intimidates or attempts to intimidate;
- (c) promises or offers a benefit;

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for the purpose of interfering with the judicial process and in the case of a witness for the purposes specified in subsection (2).

- (2) The purposes referred to in subsection (1) are:
  - (a) inducing false testimony;
  - (b) interfering with the giving of testimony; or
  - (c) interfering with the production of evidence.

**6. Obstruction of justice system participant.**

In the prosecution of an offence under section 3(1) (a) it is not necessary to prove that

- (a) the accused had knowledge of the specific nature of an offence; or
- (b) the accused knew the identity of any of the members of the group

**7. Prosecution of offences.**

The Court may, in determining whether an accused person has participated in or contributed to the activity of a group, consider, *inter alia* whether the accused

- (a) admits to being a member of the group;
- (b) has been identified as a member of the group;
- (c) habitually associates with the members of the group;
- (d) adopts the name, colours, symbol or other representation that is associated with the group;
- (e) received any financial or material benefit from the group.

**PART III – OFFENCES AND PENALTIES**

**8. Offences of organised criminal activity.**

- (1) A person who engages in organised criminal activity commits an offence.
- (2) A person who attempts or who aids, abets, counsels or procures the commission of, or who conspires to commit the offence of organised criminal activity commits an offence.
- (3) A person found guilty of an offence under subsection (1) is liable,
  - (a) on summary conviction, to a fine two hundred thousand dollars or imprisonment for five years or both;
  - (b) on conviction on indictment, to a fine of two hundred thousand dollars or to imprisonment for twenty-five years or both.
- (4) A person found guilty of an offence under subsection (2) is liable,
  - (a) on summary conviction, to a fine of one hundred and fifty thousand dollars or imprisonment for five years or both;
  - (b) on conviction on indictment to a fine of one million five hundred thousand dollars or imprisonment for fifteen years or both.

**9. Offences of corruption.**

- (1) A person who engages in corruption commits an offence.
- (2) A person who is found guilty of an offence under subsection (1) is liable,
  - (a) on summary conviction, to a fine of one hundred and fifty thousand dollars or imprisonment for five years or both; and
  - (b) on conviction on indictment, to a fine of one hundred and fifty thousand dollars or imprisonment for fifteen years or both.

**10. Offence of obstruction of justice.**

A person who commits the offence of obstruction of justice is liable,

- (a) on summary conviction, to a fine of one hundred and fifty thousand dollars or imprisonment for five years or both; and
- (b) on conviction on indictment, to a fine of one million five hundred thousand dollars or imprisonment for fifteen years or both.

**11. Forfeiture Fund.**

Any monies forfeited, or any proceeds from the sale of any property confiscated pursuant to this Act shall be deposited into the Forfeiture Fund created pursuant to the Proceeds of Crime Act, Cap. 4.28 and shall be dealt with in accordance with that Act.

*[Amended by Act 11/2008]*

**PARTIV – MISCELLANEOUS****12. Application and non-application of Acts.**

(1) Where any provision of this Act is inconsistent with or with the exercise of any power conferred by or under this Act would be inconsistent with the exercise of a power under:

- (a) the Proceeds of Crime Act, Cap. 4.28;
- (b) the Extradition Act, Cap. 4.08;
- (c) the Mutual Assistance In Criminal Matters Act, Cap. 4.19; or
- (d) any legislation in respect of witness protection,

the provisions of this Act shall apply to the extent of the inconsistency and any power conferred by or under the Acts specified in paragraphs (a) to (d) cannot be exercised so as to limit or restrict the exercise of a power conferred by or under this Act

(2) The Statue of Limitations shall not apply to offences committed under this Act.

**13. Regulations.**

The Minister may make Regulations for the purpose of giving effect to the provisions of this Act, and, in particular, for prescribing anything that this Act requires to be prescribed.