



ST. CHRISTOPHER AND NEVIS

CHAPTER 19.17

NATIONAL CRIMES COMMISSION ACT

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NATIONAL CRIMES COMMISSION ACT

Act 3 of 2004 ... in force 14th October 2007

Page

3

CHAPTER 19.17
NATIONAL CRIMES COMMISSION ACT

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

1. Short title.
2. Interpretation.

PART II

ESTABLISHMENT AND FUNCTIONS OF THE COMMISSION

3. Establishment of the Commission etc.
4. Functions of the Commission.
5. Powers of the Commission.
6. Tenure of office of members of the Commission.
7. Resignation of members of the Commission.
8. Termination of membership.
9. Remuneration of members of the Commission.
10. Meetings etc. of the Commission.
11. Seal of the Commission.
12. Directions to the Commission.

PART III

SECRETARIAT OF THE COMMISSION

13. Secretariat of the Commission.
14. Executive Secretary.
15. Other staff.
16. Engagement of specialists etc.
17. Secondment of public officers.
18. Pensions etc. to officers of the Commission.

PART IV

FINANCIAL PROVISIONS

19. Funds of the Commission.
20. Gifts etc. to the Commission.
21. Commission to operate on sound principles.
22. Application of funds.
23. Accounts of the Commission.
24. Audit.
25. Budget of the Commission.
26. Reports of the Commission.

PART V

MISCELLANEOUS PROVISIONS

27. Assistance for research etc.
 28. Immunity.
 29. Disclosure of interest.
 30. Unlawful disclosure of information etc.
 31. Offences.
 32. Regulations.
- SCHEDULE: Meetings of the Commission etc.

CHAPTER 19.17

NATIONAL CRIMES COMMISSION ACT

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A NATIONAL CRIME COMMISSION CHARGED WITH THE RESPONSIBILITY OF ADVISING AND ASSISTING THE GOVERNMENT, ITS AGENCIES AND THE COMMUNITY AT LARGE IN COMBATING THE PREVALENCE OF CRIME, AND IN THAT CONNECTION, TO PROVIDE FOR THE COMMISSION'S COMPOSITION, FUNCTIONS, POWERS AS WELL AS INCIDENTAL OR RELATED MATTERS.

PART I

PRELIMINARY

Short title.

1. This Act may be cited as the National Crime Commission Act.

Interpretation.

2. In this Act, unless the context otherwise requires—
“Commission” means the National Crime Commission established by section 3;
“Federation” means the Federation of Saint Christopher and Nevis;
“Minister” means the Minister responsible for National Security.

PART II

ESTABLISHMENT AND FUNCTIONS OF THE COMMISSION

Establishment of the Commission etc.

3. (1) For the purpose of this Act, there is established a Commission to be known as the National Crimes Commission, which Commission shall be a body corporate with perpetual succession and a common seal, and may sue and be sued in its corporate name, and may acquire, hold and dispose of any property.

(2) The Commission shall consist of not less than five and not more than nine members all of whom shall, subject to subsections (3) and (4), be appointed by the Minister, acting on the advice of cabinet, on such terms and conditions as the Minister may specify in their instruments of appointment.

(3) Subject to subsection (4), a public servant may be appointed a member of the Commission by the Governor-General, acting on the advice of the Public Service Commission or the Judicial and Legal Services Commission, as the case may be, on such terms and conditions as may be specified in his or her instrument of appointment.

(4) A person shall not qualify for appointment under subsections (2) and (3) unless that person is a person of integrity in the community, and has the relevant professional expertise needed to carry out or perform the functions of the Commission.

(5) There shall be a Chairperson for the Commission appointed by the Minister from among the members of the Commission.

(6) The functions, powers, rights and obligations of the Commission shall not be affected by any vacancy in its membership.

(7) The names of all members of the Commission, as first constituted, and every change in the membership of the Commission shall be published in the *Official Gazette*.

Functions of the Commission.

4. The functions of the Commission shall be to—

- (a) conduct investigations and inquiries into criminal activity in the Federation especially, but not limited to—
 - (i) drugs and narcotics;
 - (ii) fraud;
 - (iii) money laundering;
 - (iv) organised crime; and
 - (v) other serious offences;
- (b) obtain, analyse and disseminate intelligence and information relevant to law enforcement agencies;
- (c) formulate policies and develop programmes intended to combat the prevalence of crime and recommend those policies and programmes to the Minister;
- (d) encourage and promote the implementation of the policies and programmes mentioned in paragraph (c);
- (e) advise the Minister, and such persons, groups, organisations or bodies on policies and programmes relating to the prevention of crime;
- (f) promote the conduct of research to determine the prevalence of crime or categories of crimes and the root causes, and suggest preventive measures;
- (g) maintain a database of information on crime in the Federation;
- (h) sensitise the public on the dangers of a high prevalence of crime, and promote co-operation and trust between the community and law enforcement agencies in order to better detect and prevent criminal activities;
- (i) liaise with and co-operate with other Crime Commissions in the Region and the international community;
- (j) advise the Minister on matters of law reform and administrative practices relating to criminal law; and
- (k) monitor and evaluate actions or programmes intended to prevent or reduce crime levels in the Federation with a view to assessing their positive and negative consequences on individuals, communities and crime reduction in general.

Powers of the Commission.

5. (1) The Commission shall, in the discharge of its functions, have power to do all such acts and things and to enter into such transactions as, in the opinion of the Commission, are necessary or incidental to the proper performance of its functions under this Act or any other enactment.

(2) Without prejudice to the generality of subsection (1), the Commission shall have power, in particular, to—

- (a) conduct hearings and summon witnesses to appear before it and give evidence on oath, and produce documents;
- (b) compel, by way of notice, the attendance of a person before a member or staff of the Commission to produce documents specified in the notice; and
- (c) compel the production of documents and information from state agencies and agents.

(3) The Commission may appoint from among its members such committees as it deems fit to advise the Commission on the performance of any of its functions, and to carry out on behalf of the Commission such duties as the Commission may assign to the committees.

(4) A committee established pursuant to the provisions of subsection (3) of this section may, with approval of the Chairperson, co-opt any person as it deems fit.

Tenure of office of members of the Commission.

6. (1) Subject to subsection (2), a member of the Commission not being a public officer shall hold office for a period of three years and shall be eligible for re-appointment.

(2) The Chairperson shall hold the post of Chairperson for such period as the Minister may determine and specify in his or her instrument of appointment.

Resignation of members of the Commission.

7. (1) A member of the Commission, other than the Chairperson and a public officer, may at any time resign his or her office by instrument addressed to the Minister through the Chairperson, and the member shall cease to be a member of the Commission from the date of the receipt by the Minister of the instrument of resignation.

(2) The Chairperson may, at any time, resign his or her office by instrument addressed to the Minister, and his or her resignation shall take effect from the date of the receipt of the instrument of resignation by the Minister.

Termination of membership.

8. (1) The office of a member of the Commission who is not a public officer shall, subject to the provisions of subsection (2) of this section, become vacant on the occurrence of any of the following, that is to say, if the member—

- (a) resigns from the office from which his or her membership of the Commission arises;
- (b) becomes of unsound mind or incapable of carrying out his or her duties;

- (c) becomes bankrupt or suspends payment to or compounds with his or her creditors;
- (d) is convicted in Saint Christopher and Nevis or in any other jurisdiction of an offence involving dishonesty or fraud, or of any indictable offence;
- (e) is found guilty of serious misconduct in relation to his or her duties; or
- (f) is absent, without leave of the Chairperson of the Commission, from three consecutive meetings of the Commission.

(2) A member of the Commission who is a public officer shall cease to be a member of the Commission if he or she resigns or retires from the Public Service.

Remuneration of members of the Commission.

9. (1) The Minister of Finance may direct what sums of money shall be paid by way of remuneration to—

- (a) a member of the Commission; and
- (b) a person co-opted to any committee of the Commission.

(2) The Minister of Finance may also direct payment of any other expenses to the persons referred to in subsection (1) consequent upon the discharge of the functions of the Commission.

(3) Any payment directed to be made under this section shall be made out of moneys voted for the purpose by Parliament.

Meetings etc. of the Commission.

10. (1) The provisions of the Schedule to this Act shall have effect to the meetings of the Commission and other matters as are specified in that schedule.

(2) The Minister shall make regulations for the conduct of hearings by the Commission.

(3) The Minister may, by Order, amend the Schedule to this Act.

Seal of the Commission.

11. (1) The seal of the Commission shall be authenticated by the signatures of the Chairperson and the Executive Secretary of the Commission, and the seal shall be officially and judicially noticed.

(2) All documents, other than those required by law to be under seal, made by, and all decisions of the Commission may be signified under the hands of the Chairperson and the Executive Secretary of the Commission.

Directions to the Commission.

12. The Minister may give directions of a policy nature to the Commission to guide the Commission in the exercise and performance of the Commission's functions and powers, respectively, and the Commission shall comply with such directions.

PART III

SECRETARIAT OF THE COMMISSION

Secretariat of the Commission.

- 13.** (1) The Commission shall have a Secretariat which shall be responsible for—
- (a) the day to day management of the affairs of the Commission;
 - (b) the implementation of the policies and decisions of the Commission; and
 - (c) carrying out, on behalf of the Commission, such duties as the Commission may assign to it.
- (2) The Secretariat shall, for the purposes of carrying out its functions under this Act, consist of such staff as specified in this Part.
- (3) The Secretariat shall exercise such of the powers of the Commission as the Commission may delegate to it for the purpose of enabling the Secretariat to carry out its functions under this Act.

Executive Secretary.

- 14.** (1) The Commission shall have an Executive Secretary appointed by the Minister, after consultation with the Commission, and the Executive Secretary shall be appointed on such terms and conditions as may be determined by the Minister in consultation with the Minister of Finance.
- (2) The Executive Secretary shall be the head of the Secretariat and shall be responsible to the Commission for the day to day administration of the business of the Commission, and the supervision of the staff of the Commission.
- (3) The Executive Secretary shall be the Secretary to the Commission.

Other staff.

- 15.** (1) The Minister may appoint and employ, on the recommendation of the Commission and in consultation with the Public Service, such persons as are necessary for the performance of the functions of the Commission.
- (2) The persons referred to in subsection (1) of this section shall be employed on such terms and conditions as the Minister may determine, except that no salary shall be assigned to any post without the prior approval of the Minister of Finance.

Engagement of specialists etc.

- 16.** The Chairperson may, after consultation with the Commission and with the approval of the Minister, engage or contract the services of such specialist persons as may be necessary for the performance of the functions of the Commission.

Secondment of public officers.

- 17.** The Governor-General may, subject to such conditions as he may impose, approve the appointment of any officer in the service of the Government by way of secondment to any office of the Commission's Secretariat.

Pensions etc. to officers of the Commission.

18. (1) The Governor-General may, on the recommendation of the Commission and with the approval of Cabinet, by notice published in the *Gazette*, declare any office of the Commission to be a pensionable office under the Pensions Act.

(2) Any other employee of the Commission may, upon retirement, be granted the gratuity calculated in accordance with the principles used for calculating gratuities for non-pensionable employees in the Public Service of the Federation.

(3) Subject to the provisions of subsection (4) of this section, an officer appointed under section 17 of this Act shall, while so employed, in relation to any pension, gratuity or terminal benefits, be treated as continuing in the service of the Government.

(4) For the purpose of subsection (3) of this section, any pension, gratuity or terminal benefits payable to an officer referred to in that subsection shall be computed on the basis of the salary scale of the officer immediately prior to his or her retirement or termination of services, except that the Government shall only pay what the officer would have been entitled to if he or she had continued in Government service and the balance shall be payable by the Commission from the funds of the Commission.

(5) Any pension, gratuity or other allowance payable to any officer or employee of the Commission in respect of his or her service with the Commission shall be a charge against the funds of the Commission.

PART IV

FINANCIAL PROVISIONS

Funds of the Commission.

19. The funds of the Commission shall consist of—

- (a) grants from the Government out of moneys appropriated by the National Assembly for the purposes of the Commission;
- (b) any moneys accruing to the Commission in the course of the Commission's discharge of its functions; and
- (c) any endowment, contribution, donations and grants from the international community or other sum given or paid to, or otherwise vested in, the Commission lawfully.

Gifts etc. to the Commission.

20. (1) The Commission may, subject to subsection (2) of this section, receive any grant, technical assistance, funds or gifts in kind made, given or bequeathed to the Commission, for the purposes of the Commission and, subject to the provisions of this Act, the Commission shall apply the grant, technical assistance, funds or gifts to the furthering of the purposes of the Commission in such manner as the Commission may determine.

(2) The power conferred on the Commission by subsection (1) of this section shall not be exercised in any manner inconsistent with any condition imposed on, or any direction given in respect to, the grant, technical assistance, funds or gift.

Commission to operate on sound principles.

21. The Commission shall manage its affairs in such a manner on sounds as to meet its financial obligations out of funds available to the Commission.

Application of funds.

22. (1) Subject to sections 20 and 21 of this Act and subsection (2) of this section, any income derived from any income of the Commission shall be held and applied to furthering the purposes of the Commission in such manner as the Commission may think fit.

(2) Any funds appropriated by the National Assembly for the purposes of the Commission shall, subject to the terms of the appropriation, be applied by the Commission as the Minister may direct.

Accounts of the Commission.

23. (1) The accounts of the Commission shall be prepared and maintained in accordance with the standards recommended for the time being by the Director of Audit.

(2) The Commission shall keep proper accounts and other records in relation to the Commission's business and shall annually prepare a statement of accounts in a form that is in compliance with the provisions of subsection (1) of this section.

Audit.

24. (1) The accounts of all transactions of the Commission shall be audited annually by the Director of Audit who shall have such powers in relation to the Commission, its officers and employees, the members of the Commission, property, securities and books and records of accounts of the Commission as he has in relation to other public money and public officers by virtue of the provisions of the Finance Administration Act, Cap. 21.13.

(2) The Commission shall prepare its accounts within a period of three months of the close of the financial year to which they relate and submit the accounts to the Director of Audit.

(3) The Director of Audit shall, after auditing the accounts of the Commission as required by subsection (1) of this section, prepare a report on the accounts within a period of six months of the close of the financial year to which the audited accounts relate.

(4) The Minister may, in addition to the audit carried out pursuant to the provisions of subsection (1) of this section, request the Director of Audit to examine and report upon the accounts or any part of the accounts of the Commission, and the Commission shall provide the facilities necessary for such an examination.

Budget of the Commission.

25. (1) The Commission shall submit to the Minister for his approval—

- (a) not later than five months prior to the commencement of each financial year, income and expenditure estimates, in such details as the Minister may require; and
- (b) as soon as may be, any subsequent proposal to amend the estimates,

and the estimates, together with any amendments, upon being approved by the Minister, shall be the Commission's budget for the financial year to which they relate.

(2) The Minister may, in any case and upon the application of the Commission, increase or reduce the period of five months specified in paragraph (a) of subsection (1) of this section.

Reports of the Commission.

26. (1) The Commission shall, within six months after the end of each financial year, forward to the Minister—

- (a) a report on the operations of the Commission during that financial year and on the Commission's policies and programmes for the future years; and
- (b) a copy of the audited accounts as at the close of the previous financial year.

(2) The Commission shall specify in the report referred to in paragraph (a) of subsection (1) of this section—

- (a) any directions given by the Minister to the Commission during that year; and
- (b) the scales of salaries and wages paid to officers, employees and servants of the Commission.

(3) The Minister shall cause copies of—

- (a) the report referred to in paragraph (a) of subsection (1) of this section;
- (b) the audited accounts referred to in paragraph (b) of subsection (1) of this section; and
- (c) the report of the Director of Audit,

to be laid before the National Assembly not later than the 14th day of December following the end of the financial year to which they relate.

PART V

MISCELLANEOUS PROVISIONS

Assistance for research etc.

27. The Commission may, with the approval of the Minister, give such financial or other assistance as it thinks fit, to persons undertaking, on behalf of the Commission, such research or other activities as are necessary or advantageous in connection with the carrying out of the functions of the Commission under this Act.

Immunity.

28. (1) No action, suit or other proceedings shall be brought or instituted against any member of the Commission personally in respect of any act done *bona fide* in pursuance or execution or intended execution of this Act.

(2) Where any member of the Commission is exempt from liability by reason only of the provisions of this section, the Commission shall be liable to the extent that

it would be if the said member were an employee, a servant or agent of the Commission.

Disclosure of interest.

29. (1) Where a member of the Commission has any interest, directly or indirectly, in any matter in which his or her private capacity conflicts with his or her duties as a member of the Commission and which matter, is the subject of consideration by the Commission, the member shall, as soon as practicable after becoming aware of the interest in the matter, disclose his or her interest to the Commission.

(2) A member referred to in subsection (1) of this section shall not, unless the Commission otherwise directs, take part in the consideration or discussion of the matter or if allowed to take part in the consideration of the matter, he or she shall not vote on any question with respect to the matter.

(3) A disclosure made pursuant to the provisions of subsection (1) of this section shall be recorded in the minutes of the Commission.

Unlawful disclosure of information etc.

30. No person shall, without the permission of the Commission or the Minister, disclose to the public or publish any information of the Commission which is, by regulations made by the Minister, prohibited from being disclosed or published.

Offences.

31. (1) Any person who—

- (a) discloses or publishes information contrary to the provisions of section 30 of this Act; or
- (b) being in possession of any information which he or she knows has been disclosed in contravention of this Act, publishes or communicates such information to any person,

commits an offence and is liable, on summary conviction, to a fine not exceeding ten thousand dollars or in default of payment of the fine, to imprisonment for a term not exceeding twelve months or both.

(2) A person who fails to comply with the provisions of section 29 of this Act, commits an offence and is liable—

- (a) on summary conviction, to a fine not exceeding fifteen thousand dollars or imprisonment for a term not exceeding two years or both; or
- (b) on conviction on indictment, to a fine not exceeding thirty thousand dollars or imprisonment for a term not exceeding five years or both.

(3) A person who is accused of an offence under subsection (2) shall not be convicted of the offence if he or she proves that he or she did not know that the matter in which he or she had an interest was the subject of consideration at that meeting.

(4) A member of the Commission who is convicted of an offence under subsection (2) shall cease to be a member of the Commission and he or she shall not thereafter be eligible for re-appointment.

Regulations.

32. The Minister may make regulations generally for the better carrying into effect the provisions of this Act, and without prejudice to the generality of the foregoing the Minister may, in particular, make regulations providing for—

- (a) the conditions of service of officers and employees of the Commission;
 - (b) the grant of pensions, gratuities and other benefits to such officers, and employees; and
 - (c) the grant of gratuities and other benefits to the dependants or estates of deceased officers, and employees of the Commission.
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SCHEDULE

(Section 10(1))

MEETINGS OF THE COMMISSION ETC.

Meetings.

1. (1) The Commission shall meet as often as may be necessary or expedient for the transaction of business, but shall meet at least once in every three months.

(2) All meetings of the Commission shall be held at such place and time and on such days as the Chairperson may determine.

(3) The Chairperson may at any time call a special meeting of the Commission within fourteen days of a written request for that purpose addressed to him by 1/3 of its members.

(4) The Chairperson shall preside at meetings of the Commission and in his absence the Deputy Chairperson shall preside, and in the case of the absence of both the Chairperson and Deputy Chairperson from any meeting the members present and forming a quorum shall elect one of their number to preside at that meeting.

Quorum.

2. The quorum of the Commission shall be 2/3 of its members.

Minutes.

3. Minutes of each meeting of the Commission shall be kept in a proper form.

Validity of proceedings.

4. The validity of any act or proceedings of the Commission shall not be affected by any vacancy among its members or by any defect in the appointment of a member.

Regulation of Procedure.

5. Subject to the provisions of this schedule, the Commission may regulate its proceedings.
