



ST. CHRISTOPHER AND NEVIS

CHAPTER 19.22

STATUS OF VISITING POLICE FORCES DURING ICC CRICKET WORLD CUP 2007 ACT

Revised Edition

showing the law as at 31 December 2009

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This edition contains a consolidation of the following laws—

STATUS OF VISITING POLICE FORCES DURING ICC CRICKET WORLD CUP 2007 ACT

Act 8 of 2007 ... in force 21st March 2007

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CHAPTER 19.22

STATUS OF VISITING POLICE FORCES DURING ICC CRICKET WORLD CUP 2007 ACT

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CHAPTER 19.22
**STATUS OF VISITING POLICE FORCES DURING ICC CRICKET
WORLD CUP 2007 ACT**

AN ACT TO PROVIDE FOR THE PRESENCE, ACTIVITIES, PRIVILEGES AND IMMUNITIES OF MEMBERS OF FOREIGN POLICE FORCES AND CIVILIAN PERSONNEL DURING THE PERIOD OF CWC 2007, AND FOR RELATED OR INCIDENTAL MATTERS.

Short title.

1. This Act may be cited as the Status of Visiting Police Forces During ICC Cricket World Cup 2007 Act.

Interpretation.

2. In this Act, unless the context otherwise requires—

“civil court” means a court of ordinary criminal jurisdiction in Saint Christopher and Nevis and includes a court of summary jurisdiction;

“civilian personnel” means civilian personnel designated under section 4 as a civilian component of a visiting force or visiting police force;

“designated State” means a State other than Saint Christopher and Nevis, that is designated under section 4;

“Police Force” means the Royal Saint Christopher and Nevis Police Force;

“service court” means a court-martial and includes the service authorities of a designated State who are empowered by the laws of that State to deal with charges;

“Member State” means a Member State of the Caribbean Community;

“Treaty on Security Assistance” means the Treaty on Security Assistance Among CARICOM Member States concluded on 6 July 2006, including any amendments or protocols thereto;

“visiting police forces” means the members of any police force of a designated State present in Saint Christopher and Nevis in connection with official duties.

PART II

APPLICATION OF ACT

Application.

3. This Act applies in respect of visiting police forces and civilian personnel—

(a) of a State designated pursuant to section 4; or

(b) who are present in Saint Christopher and Nevis pursuant to the provisions of the Treaty on Security Assistance.

Designated States.

4. (1) The Minister may, by Order—

- (a) designate any country as a designated State for the purpose of this Act;
- (b) declare the extent to which this Act is applicable in respect of any designated State;
- (c) designate civilian personnel as a civilian component of a visiting police force;
- (d) revoke or amend any designation or declaration made under paragraph (a), (b) or (c).

(2) The countries listed in the Schedule hereto are designated States for the purpose of this Act but such designation may be amended or revoked in accordance with paragraph (d) of subsection (1).

PART III

POWERS AND IMMUNITIES OF VISITING POLICE FORCES

Status of members of visiting police forces.

5. Any member of a visiting police force who is sent to Saint Christopher and Nevis for the performance of police duties similar to duties performed by him in his substantive office shall, while on duty in Saint Christopher and Nevis be liable to perform the same duties and subject to the orders of the Commissioner of Police, in the same manner and in all respects as if he were a member of the Police Force, and shall, subject to this Act, have the same rights, powers, privileges and immunities as are conferred by law and custom on members of the Police Force as may be necessary for the performance of such duties.

Immunity from prosecution.

6. (1) Notwithstanding sections 5 and 7, members of a visiting police force shall be immune from prosecution in civil and criminal court proceedings in Saint Christopher and Nevis in respect of actions taken in the course of their official duties.

(2) The immunity specified in subsection (1) may be waived in respect of any member of a visiting police force, by the competent authority of the designated State of the visiting police force.

PART IV

JURISDICTION OF CIVIL COURTS AND VISITING POLICE FORCES

Civil courts' jurisdiction.

7. (1) Subject to subsection (2) and section 6, the civil courts have the primary right to exercise jurisdiction in respect of any act that constitutes an offence against any law in force in Saint Christopher and Nevis and that is committed by a member of a visiting police force.

(2) With respect to the alleged commission by a member of a visiting force of an offence respecting—

- (a) the property or security of the designated state;

- (b) the person or property of another member of the visiting police force;
or
- (c) an act done in the performance of official duty;

the service courts of the visiting force have the primary right to exercise jurisdiction.

Certificate concerning official duty.

8. A certificate of the service authorities of a designated State that anything alleged to have been done by a member of a visiting force of that state was or was not done in the performance of an official duty, is receivable in evidence in any civil court and for the purposes of this Act is *prima facie* proof of that fact.

Previous trial by civil courts.

9. (1) Where a member of a visiting police force has been tried by a civil court and has been convicted or acquitted, he may not be tried again within Saint Christopher and Nevis for the same offence by a service court of that visiting police force.

(2) Nothing in subsection (1) prevents a service court from trying within Saint Christopher and Nevis a member of the visiting force for any violation of rules of discipline arising from an act that constituted an offence for which he was tried by a civil court.

Trial by court having primary right.

10. Where under sections 5 and 6 a civil court or a service court of a visiting police force has the primary right to exercise jurisdiction, the court having the primary right has the right to deal with charges against alleged offenders in the first instance, but that right may be waived in accordance with such regulations as may be made in that behalf.

Police functions.

11. The authority of members of a visiting police force to exercise police functions, including the power of arrest are such functions as are prescribed by the Minister, by Order; but no such regulation may empower a member of a visiting force to exercise police functions in respect of any person who is not a member of the visiting force.

Common law arrest.

12. Nothing in section 9 shall be construed to prevent a member of a visiting force from exercising any common law power to make an arrest.

Firearms and drilling.

13. Members of a visiting police force acting in the course of their duties, excluding civilian personnel—

- (a) may, if authorised to do so by the Commissioner of Police, possess and carry explosives, ammunition and firearms; and
- (b) are not subject to any law of Saint Christopher and Nevis relating to the making or possessing of explosives.

PART V

CLAIMS AGAINST VISITING POLICE FORCES

Claims against designated States.

14. For the purposes of the Crown Proceedings Act—

- (a) a tort committed by a member of a visiting force while acting within the scope of his duties or employment shall be deemed to have been committed by a servant of the Crown while acting within the scope of his or her duties or employment;
- (b) property owned, occupied, possessed or controlled by a visiting force shall be deemed to be owned, occupied, possessed or controlled by the Crown; and
- (c) a service motor vehicle of a visiting force shall be deemed to be owned by the Crown.

Enforcement of judgment.

15. A member of a visiting force is not subject to any proceedings for the enforcement of any judgment given against him or her in Saint Christopher and Nevis in respect of a matter that arose while he or she was acting within the scope of his or her duties or employment.

Ships.

16. Except as section 13 may be made applicable by order of the Minister in respect of the ships of any particular designated State, that section does not apply to a claim arising out of or in connection with the navigation, operation or salvage of a ship or the loading, carriage or discharge of a cargo, unless the claim is a claim arising out of death or injury to the person.

Official duty.

17. Where a question that cannot be settled by negotiation between the parties arises under this Part as to whether—

- (a) a member of a visiting force was acting within the scope of his duties or employment; or
- (b) a matter in respect of which judgment was given against a member of a visiting force arose while he or she was acting within the scope of his or her duties or employment;

the question must be submitted to an arbitrator appointed in accordance with section 18, and for the purposes of this Part the decision of the arbitrator is final and conclusive.

Arbitration.

18. (1) An arbitrator must be appointed for the purposes of section 17 by agreement between the designated States concerned and Saint Christopher and Nevis from among the nationals of Saint Christopher and Nevis who hold or have held high judicial office.

(2) If the designated State and Saint Christopher and Nevis are unable within two months, to agree upon an arbitrator, either the designated state or Saint Christopher and Nevis may request any person designated in an agreement with the designated State, or acceptable to the designated state and Saint Christopher and Nevis, to appoint the arbitrator from among the nationals of Saint Christopher and Nevis who have held high judicial office.

PART VI

TAXATION

Tax and residence.

19. Where the liability for any form of taxation in Saint Christopher and Nevis depends upon residence or domicile, a period during which a member of a visiting force is in Saint Christopher and Nevis by reason of his being a member of the visiting force shall, for the purposes of that taxation, be deemed not to be a period of residence in Saint Christopher and Nevis and not to create a change of residence or domicile.

Salaries.

20. (1) A member of a visiting force is exempt from taxation in Saint Christopher and Nevis on the salary and emoluments paid to him as a member of a visiting force by a designated State and in respect of any tangible moveable property that is in Saint Christopher and Nevis temporarily by reason of his presence in Saint Christopher and Nevis in that capacity.

(2) For the purposes of section 30 and this section, the term “member of a visiting police force” does not include a citizen of Saint Christopher and Nevis who is resident or ordinarily resident in Saint Christopher and Nevis.

Service vehicle.

21. No tax or fee is payable in respect of the licensing or registration of service vehicles of a visiting force or in respect of the use of those vehicles on any road in Saint Christopher and Nevis.

Imports.

22. A visiting force may import into Saint Christopher and Nevis, free of customs duty and any tax, equipment for the visiting force and such quantities of provisions, supplies and other goods for the exclusive use of the visiting force.

Personal effects.

23. A member of a visiting force at the time of his or her first arrival to take up service in Saint Christopher and Nevis import his or her personal effects free of customs duty and any tax.

Fuel, oil etc.

24. Subject to compliance with such conditions as are prescribed by the regulations, no customs duty or any tax is payable on any fuel, oil or lubricants

intended for use exclusively in the service vehicles, aircraft or vessels of a visiting force.

PART VII

MISCELLANEOUS

Police powers exercisable on Minister's order.

25. (1) Where under any enactment a power is exercisable by any authority or person—

- (a) respecting the Police Force, its members, its service courts or any person connected therewith, or
- (b) respecting any property used or to be used for the purposes of the Police Force, or for taking possession of any property to be so used, or for acquiring, whether by agreement or compulsorily, any property so used or to be so used,

the Minister may by order provide that the power be exercisable by that authority or person, as the case may be, in the case of a visiting force to which the order applies to any extent to which it would be exercisable if the visiting force were a part of the Police Force.

(2) The Minister may, by order—

- (a) exempt a visiting force or its members, its service courts, any other person connected therewith or any property used or to be used for the purposes thereof, from the operation of any enactment specified in the order to any extent to which the force, members, courts, persons or property would be, or would be capable of being exempted, if the force were a part of the Police Force; and
- (b) confer on that force or any members, courts, persons or property referred to in paragraph (a) any other privilege or immunity specified in the order, being a privilege or immunity that would be enjoyed by, or would be capable of being conferred on the force, members, courts, persons or property if the force were part of the Police Force.

(3) Where under any enactment the doing of anything is prohibited, restricted or required in relation to—

- (a) the Police Force, its members, its service courts or any other person connected therewith, or
- (b) any property used or to be used for the purposes of the Police Force, the Minister may by order extend the prohibition, restriction or requirement to any visiting force in the same manner as if the visiting force were a part of the Police Force.

(4) An order made under this section may contain such incidental, consequential and supplementary provisions as the Minister thinks necessary for the purposes of the order, including provisions for applying, modifying, adapting or suspending any enactment.

(5) Subsections (1) and (4) apply whether the power is exercisable, or the prohibition, restriction or requirement is imposed, by a provision expressly relating to

the Police Force or by a more general provision; and subsection (3) applies whether the exemption, privilege or immunity subsists, or is capable of being conferred, by virtue of such a provision or by reason of any enactment not binding the Crown.

Coroner's inquest.

26. (1) Where a coroner who has jurisdiction to hold a Coroner's inquest touching a death, is satisfied that the deceased person at the time of his or her death had a relevant association with a visiting police force, then, unless the Minister otherwise directs, the coroner may not hold the inquest, or, if it has been begun but not completed, shall adjourn it.

(2) Subject to subsection (1), a coroner referred to in that subsection shall, unless the Minister otherwise directs, adjourn the inquest if he is satisfied—

- (a) that a person who is subject to the jurisdiction of the service courts of a visiting police force has been charged before a service court with the homicide of the deceased person referred to in subsection (1), whether or not that charge has been dealt with; or
- (b) that a person referred to in paragraph (a) is being detained by an authority of a visiting police force with a view to being so charged.

(3) Where an inquest is adjourned under this section the coroner may resume the inquest only on the direction of the Minister.

(4) Where an inquest that was adjourned under this section is resumed, the coroner shall proceed in all respects as if the inquest had not been previously begun.

(5) In this section—

- (a) "homicide" includes murder, manslaughter, infanticide and any offence under the law of the country in question that is analogous to any of those offences;
- (b) references to a person having a relevant association with a visiting police force are references to his being at the time—
 - (i) a member of the visiting police force or a member of a civilian component of that force; or
 - (ii) a person who, not being a citizen of Saint Christopher and Nevis or a permanent resident thereof within the meaning of the Immigration Act, is a member of the visiting police force or of a civilian component of that force.

(6) In determining, for the purposes of this section, whether a person is, or was at any time, a permanent resident of Saint Christopher and Nevis, no account shall be taken of any period during which he or she has been, or intends to be, present in Saint Christopher and Nevis as a member of a visiting police force or of a civilian component of such a force.

Act to bind the State.

27. This Act binds the State.

SCHEDULE*(Section 4(2))***DESIGNATED STATES**

1. Member States of the Caribbean Community
 2. Associate Members of the Caribbean Community
 3. South Africa
 4. Canada
 5. United Kingdom
 6. France
 7. The Netherlands Antilles
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