



ST. CHRISTOPHER AND NEVIS

CHAPTER 23.22

PRESS AND PUBLICATIONS BOARD ACT

Revised Edition

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PRESS AND PUBLICATIONS BOARD ACT

Act 27 of 1971 ... in force 15th March 1973

Amended by: Act 6 of 1976

Act 9 of 1986

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CHAPTER 23.22

PRESS AND PUBLICATIONS BOARD ACT

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CHAPTER 23.22

PRESS AND PUBLICATIONS BOARD ACT

AN ACT TO PROHIBIT UNDESIRABLE PUBLICATIONS CALCULATED TO HARM THE NATIONAL INTEREST; AND TO PROVIDE FOR THE ESTABLISHMENT OF A BOARD TO INVESTIGATE COMPLAINTS OF SUCH PUBLICATIONS; AND TO PROVIDE FOR RELATED OR INCIDENTAL MATTERS.

Short title.

1. This Act may be cited as the Press and Publications Board Act.

Interpretation.

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

“Board” means the Press and Publications Board established by section 3 of this Act;

“complaint” means an allegation in writing directed to the Board or to any of its members regarding any undesirable publication and whether or not it is in any particular form;

“matter”, when used in the context of publication, means any description of article containing or embodying matter to be read or looked at or both, any sound record and any film or other record of a picture or pictures;

“newspaper” means any paper—

- (a) containing public news, intelligence or occurrences or any remarks or observations therein printed for sale and published in the State periodically or in parts or numbers at intervals not exceeding twenty-six days between the publication of any two such papers, parts or numbers;
- (b) printed in order to be dispersed and made public weekly or oftener or at intervals not exceeding twenty-six days containing only or principally advertisements, except that the definition of newspaper shall not include the *Official Gazette*;

“periodical” includes every publication issued periodically or in parts or numbers at intervals whether regular or irregular;

“print” with its grammatical variations and cognate expressions includes reproduction or representation by means of a typewriter, roneo, cyclostyle or other similar apparatus or by any other method by which words, figures, signs or symbols may be reproduced or represented in visible form;

“registered publisher” includes the printer publisher and proprietor of any newspaper or periodical in accordance with the provisions of the Newspapers Act, Cap. 18.23 and includes also the person executing any Bond as principal in accordance with section 4 of the Newspaper Surety Act, Cap. 18.24;

“sell”, with its grammatical variations and cognate expressions, includes exchange and barter;

“undesirable publication” means every publication containing any matter which is capable of being the subject matter of an offence under section 6 of this Act.

Establishment and Composition of Board.

3. (1) For the purposes of this Act, there shall be and there is hereby constituted a Board to be known as the Press and Publications Board consisting of a Chairperson and two other Members appointed by the Governor-General.

(2) In appointing the Chairperson of the Board the Governor-General shall act in accordance with the advice of the Cabinet and in appointing the other two members the Governor-General shall act as to one after consultation with the Prime Minister and as to the other after consultation with the Leader of the Opposition in the National Assembly:

Provided that if for any reason there be no Leader of the Opposition in the National Assembly, this provision in so far as it requires the consultation with the Leader of the Opposition in the National Assembly shall be of no effect and to that extent the Governor-General may act as seems to him or her best.

(3) The Board shall have power to act notwithstanding any vacancy in its membership and no action of the Board shall be invalid merely by reason of such a vacancy.

(4) The Board shall have power to regulate its own proceedings.

(5) The Board shall meet at such times as may be necessary or expedient for the transaction of business and such meetings shall be held at such places and times and on such days as the Board shall determine.

(6) The appointment of any member of the Board shall be evidenced by an instrument in writing and such instrument shall state the period of office of the member which shall not exceed three years.

(7) Every member of the Board shall be eligible for reappointment.

(8) Any member of the Board may at any time resign his or her office by writing under his or her hand addressed to the Governor-General and such member shall cease to be a member of the Board from the date of receipt of such written notice by the Governor-General.

(9) Notwithstanding anything to the contrary, the Governor-General may at any time revoke the appointment of any member of the Board.

(10) The Chairperson and other members of the Board may be paid such remuneration or allowances as may be fixed by the Governor-General, acting on the advice of the Cabinet, out of funds to be allocated by the Legislature.

(11) Membership of the Board, whether with or without remuneration, shall not be considered to be the holding of a public office or an office of profit under the Crown.

Record of Proceedings of Board.

4. (1) The Board shall keep a record of its proceedings.

(2) At the first meeting of the National Assembly in each year, the record of proceedings of the Board for the previous year shall be laid before the National Assembly.

Board to receive and consider complaints.

5. (1) It shall be the duty of the Board—

- (a) to receive and consider any complaint relating to an undesirable publication which may be made to it; and
- (b) to make such inquiries as it thinks necessary with respect to the facts alleged in any such complaint.

(2) The Board shall have power to require from the editor, publisher or other person having the principal responsibility for the publication of a newspaper or periodical the name and address of the author of any matter in such newspaper or periodical.

(3) Any person who fails to supply the name and address of any author having been required so to do by the Board commits an offence and shall be liable, on conviction, to a fine not exceeding three hundred and fifty dollars or to imprisonment with or without hard labour for a term not exceeding three months or both.

(Amended by Act 9 of 1986)

(4) If, after consideration of any complaint received in accordance with subsection (1) of this section, the Board is satisfied that the complaint is made out then and in that case the Board shall—

- (a) notify all of the persons against whom the complaint is made out of the finding;
- (b) where necessary, demand apologies corrections and/or explanations; and
- (c) where appropriate require the persons against whom the complaint is made out to enter into an undertaking and give an assurance against further undesirable publication.

(5) If any person—

- (a) fails to comply with a demand from the Board for an apology, correction or explanation; or
- (b) being required by the Board to enter into an undertaking or give an assurance in accordance with subsection (4)(c) fails to do so; and
- (c) it appears to the Board in regard to such person that such conduct is likely to continue,

the Board shall report the matter to the Attorney-General.

Offences and Penalties.

6. (1) Any person who writes, prints, publishes, circulates, sells, distributes or causes to be written, printed, published, circulated, sold or distributed to the public any matter—

- (a) which is prejudicial to the defence of the State or to public safety, public order, public morality or public health, without prejudice to the foregoing;
- (b) which is scurrilous or seditious or blasphemous; or
- (c) which so distorts information as to be likely to deceive or mislead the public on matters of public interest;
- (d) which, in relation to the Government of the State or any member of it, is false, scandalous and malicious with the intent to bring the Government into hatred, contempt or disrepute;

- (e) which tends to subvert the administration of justice the security of the State or the efficient functioning of the administrative machinery of the State; or
- (f) which is intended or calculated to malign or injure the reputation of the State or to bring the name of the State into contempt, hatred or ridicule,

commits an offence and shall be liable, on conviction on indictment, for a first offence to imprisonment with or without hard labour for a term not exceeding two years or to a fine not exceeding three thousand dollars or to both such imprisonment and such fine and for a subsequent offence to imprisonment with or without hard labour for a term not exceeding three years.

(Amended by Act 9 of 1986)

(2) In determining whether any person had or had not the necessary intention for an offence under this section every person shall be taken to intend the consequences which are likely to follow from his or her conduct at the time and under the circumstances in which he or she so conducted himself or herself.

(3) Where a person is charged under paragraph (c) of subsection (1) of this section it shall be a valid defence to such a charge that he or she did all that was reasonably and properly necessary to obtain correct information and/or to ensure the accuracy of his or her information and that he or she had no knowledge that the information used by him or her and in relation to which he or she is charged was false, distorted or likely to mislead or deceive the public.

(4) A person shall not be convicted of an offence against this section if it is proved that the publication of the matter in respect of which he or she is charged is justified as being for the public good, and in this subsection, the expression "the public" means the public at large or any section of the public.

Power of Suspension.

7. (1) Where any person is convicted of an offence under section 6, the Board may make an order suspending such person either indefinitely or for a stated period from being involved or concerned in the business of the writing, printing, publication, circulation, selling or distribution of any newspaper or periodical unless he or she deposits with the Board security in the sum of five thousand dollars.

(2) Where any person who is convicted of an offence is a person who does not belong to the State in accordance with the definition in section 2 of the Immigration Act, Cap. 6.02, as amended, the Board may recommend that he or she be expelled from the State or that he or she be not allowed further entry into the State.

(3) Where there have been two or more convictions on separate occasions against a person or persons in connection with matter published in the same newspaper or periodical which is printed in the State the Board may make an order suspending the printing, publication and/or circulation of such newspaper or periodical unless the registered publisher of the newspaper or periodical deposits with the Board security in the sum of fifty thousand dollars.

(4) Where there have been two or more convictions on separate occasions against a person or persons in connection with matter published in the same newspaper or periodical which is printed outside the State the Board may recommend that such newspaper or periodical be not further imported into the State.

(5) Any deposit made under subsection (1) or subsection (3) of this section may be made in any legal tender, or, with the consent of the Board, in any other manner.

Provisions governing deposits.

8. (1) The Board shall lodge any sums received by way of deposits in an account in its own name with any authorised Institution and withdrawals from such account may be made only on the authority of the Board.

(2) The Board shall submit its accounts to the Director of Audit to be audited annually and a copy of the annual accounts duly audited shall be laid before the National Assembly.

(3) A deposit made under and in accordance with the foregoing provisions may be used by the Board to such extent as is necessary to satisfy any judgment including costs or to pay any fine ordered against the person making the deposit or the newspaper or periodical in respect of which the deposit was made.

(4) Any person making a deposit as aforesaid shall be entitled to have the same refunded by the Board to the extent that it has not been used by the Board under subsection (3) if—

- (a) being a deposit made in respect of subsection (1) of section 7 the person ceases to write, print, sell or have any connection with any publication and there is no judgment or fine outstanding against him or her; or
- (b) being a deposit made in respect of subsection (3) of section 7 the newspaper or periodical ceases publication and there is no judgment or fine outstanding against it.

(5) A deposit made in accordance with the foregoing provisions shall not be deemed to have accrued to the general revenue of the State.

Power to Search and Seizes.

9. (1) Any Police Officer, Customs Official or Immigration Official may detain and search any person or package leaving or entering the State if he or she reasonably suspects such person or package of carrying a newspaper or periodical which contains matters capable of being the subject matter of an offence under and by virtue of section 6 of this Act.

(2) If any person or package detained and searched in accordance with subsection (1) is found to be carrying or to contain any newspaper or periodical or other publication which contains any matter capable of being the subject matter of an offence under and by virtue of section 6 of this Act such newspaper or periodical may be impounded and retained by the Officer.

(3) Any newspaper, periodical or other matter seized or impounded in pursuance of this section or in respect of which any conviction has been recorded shall be forfeited to the Crown and shall be destroyed or otherwise disposed of in accordance with the directions of the Minister for the time being charged with the subject of National Security.

(Amended by Acts 6 of 1976 and 6 of 2000)

Limitation of Prosecution.

10. (1) No prosecution for an offence under this Act shall be commenced except within six months after the offence is alleged to have been committed.

(2) No prosecution for an offence under this Act shall be instituted except by or with the consent of the Director of Public Prosecutions.

Saving.

11. Nothing in this Act shall be deemed to repeal or otherwise abrogate the provisions of the Sedition and Undesirable Publications Act, Cap. 4.34.
