



ST. CHRISTOPHER AND NEVIS

CHAPTER 19.25

GANG (PROHIBITON AND PREVENTION) ACT

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GANG (PROHIBITON AND PREVENTION) ACT

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CHAPTER 19.25
GANG (PROHIBITION AND PREVENTION) ACT

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CHAPTER 19.25

GANG (PROHIBITON AND PREVENTION) ACT

AN ACT TO MAKE PROVISION FOR THE MAINTENANCE OF PUBLIC SAFETY AND PUBLIC ORDER BY DISCOURAGING MEMBERSHIP OF GANGS, AND SUPPRESSING OF GANG-RELATED ACTIVITIES; TO ENHANCE LAW ENFORCEMENT IN THE AREA OF INVESTIGATION AND PROSECUTION OF GANGS; TO DETER AND PUNISH CRIME COMMITTED IN CONCERT WITH A GANG; TO PROTECT LAW-ABIDING CITIZENS AND COMMUNITIES FROM SUCH CRIMES; TO FACILITATE AND REFORM PROSECUTION OF JUVENILES WHO COMMIT CRIMES IN CONCERT WITH A GANG; TO ESTABLISH GANG PREVENTION PROGRAMMES; AND TO PROVIDE FOR RELATED OR INCIDENTAL MATTERS.

PART I

PRELIMINARY MATTERS

Short title.

1. This Act may be cited as the Gang (Prohibition and Prevention) Act.

Interpretation.

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

“ammunition” has the meaning assigned to it in the Firearms Act, Cap. 19.05;

“ballistic vest and bullet-proof” means a vest or an item of personal armor designed to absorb impact from firearm-fired projectiles and shrapnel from explosions caused by any hand grenades, bombs or other explosive devices;

“child” means a person who is under fourteen years;

“gang” means a combination of two or more persons, whether formally or informally organised, which, through its membership or through an agent, engages in any gang-related activity;

“gang-related activity” means any criminal activity, enterprise, pursuit or undertaking in relation to any of the offences listed in the Schedule to this Act acquiesced in, or consented or agreed to, or directed, ordered, authorised, requested or ratified by any gang member, including a gang leader;

“harbours” means giving refuge or shelter to another person and encouraging or supporting, whether tacitly or explicitly, that person in committing any gang related activity;

“law enforcement officer” includes—

- (a) a Police officer;
- (b) a Customs and Excise officer;
- (c) an Inland Revenue officer;
- (d) a member of the Defence Force;
- (e) a Prison officer; and
- (f) a local constable;

“leader of a gang” means a person who knowingly initiates, organises, plans, finances, directs, manages or supervises any gang-related activity;

“member of a gang” means a person who—

- (a) belongs to a gang;
- (b) knowingly acts in the capacity of an agent for a gang-related activity, whether in a preparatory, executory or concealment phase of any such activity;
- (c) is an accessory to a gang-related activity, whether in a preparatory, executory or concealment phase of any such activity;
- (d) is legally accountable for or voluntarily associates himself or herself with any gang-related activity, whether in a preparatory, executor or concealment phase of any such activity;
- (e) who knowingly performs, aids, or abets any gang-related activity.

“Minister” means the Minister responsible for the subject of National Security;

“recruits” includes counselling, procuring, luring soliciting, inciting or inducing;

“school” includes an orphanage or any establishment for the conduct of technical or vocational training or social programmes designed for the youth.

PART II

PROHIBITION OF GANGS AND GANG RELATED OFFENCES

Prohibition of formation of gangs.

3. (1) It is hereby expressly declared that formation of a gang as defined in section 2 of this Act is unlawful and is prohibited by this Act.

(2) Any person who—

- (a) forms or attempts to form a gang;
- (b) is or attempts to become a member of a gang; or
- (c) in order to gain an unlawful benefit, professes to be a member of a gang when in fact he or she is not, whether by telling anyone that he or she is a member of a gang or otherwise suggesting to anyone that he or she is a member of a gang,

commits an offence and shall be liable, on summary conviction, to imprisonment for a term of ten years, and on any subsequent conviction on indictment he or she shall be liable to imprisonment for a term not exceeding twenty years.

(3) A person who is a leader of a gang commits an offence and shall be liable, on conviction on indictment, to imprisonment for a term not exceeding twenty-five years.

(4) A law enforcement officer who is at the same time a member of a gang commits an offence and shall be liable, on conviction on indictment to imprisonment for a term not exceeding twenty-five years.

(5) For the purpose of this Act, it shall not be necessary to show that a particular gang possesses, acknowledges or is known by—

- (a) any common name;
- (b) insignia;
- (c) flag;
- (d) means of recognition;
- (e) secret signal or code;
- (f) creed;
- (g) belief;
- (h) structure;
- (i) leadership or command structure;
- (j) method of operation or criminal enterprise;
- (k) concentration or speciality;
- (l) membership;
- (m) age or other qualification;
- (n) initiation rites;
- (o) geographical or territorial situs;
- (p) boundary or location; or
- (q) other unifying mark, manner, protocol or method of expressing or indicating its membership when the gang's existence can be demonstrated by a preponderance of other admissible evidence,

but any evidence reasonably tending to show or demonstrate the existence of or membership in a gang shall be admissible in any action or proceedings brought under this Act.

Coercing or encouraging persons to become members of gangs.

4. A person who, by any means, coerces, encourages, entices, aids or abets another person to become a member of a gang that person commits an offence and shall be liable, on conviction on indictment, to imprisonment for a term not exceeding twenty-five years.

Recruiting of persons to become members of gangs.

5. (1) A person who—

- (a) recruits or attempts to recruit a person who is not a child into the membership of a gang; or
- (b) otherwise solicits or invites support for a gang,

commits an offence, and shall be liable, on conviction on indictment, to imprisonment for a term not exceeding ten years.

(2) A person who recruits or attempts to recruit into the membership of a gang a person whom he or she knows or ought to know is a child commits an offence, and shall be liable, on conviction on indictment, to imprisonment for a term not exceeding fifteen years.

(3) Notwithstanding the provisions of subsection (2), a person who, within five hundred metres of a school or place of worship, recruits into the membership of a

gang a person whom he or she knows or ought to know is a child commits an offence, and shall be liable, on conviction on indictment, to imprisonment for a term not exceeding twenty years.

Preventing a person from leaving membership of a gang.

6. A person who, whether by coercion or otherwise, prevents or attempts to prevent a person who is a member of a gang from leaving membership of the gang, that person commits an offence, and shall be liable, on conviction on indictment, to imprisonment for a term not exceeding twenty-five years.

Participating in a criminal activity in association with a gang.

7. (1) Subject to the provisions of subsection (2), a person who, whether or not he or she is a member of a gang—

- (a) commits a gang-related activity at the direction of a member of a gang;
- (b) knowingly assists, aids or abets any member of a gang to carry out a gang-related activity;
- (c) assists in the concealment of a gang-related activity by the gang; or
- (d) knowingly commits, assists, aids or abets in the commission of a gang related activity at the direction of, or in concert with, or for the benefit of, the gang, or conceals or assists in the concealment of the same,

commits an offence, and shall be liable, on conviction on indictment, to a fine of five hundred thousand dollars and to imprisonment for a term not exceeding twenty years.

(2) It is a defence for a person charged for an offence under the provisions of subsection (1) (a) or (c) to prove that he or she did not know that any person under whose direction he or she acted, or whom he or she assisted, aided or abetted to carry out the offence, or for whom he or she concealed or assisted in the concealment of the offence, as the case may be, was or might be a member of the gang.

Possession of ballistic vest, bullet-proof vest or ammunition for the benefit of a gang.

8. A person who has in his or her possession or under his or her care or control a ballistic vest or bullet-proof vest, firearm or ammunition, whether lawfully obtained or not, which he or she intends to use or ought to know may be used for the benefit of or at the direction of a gang, or a member of the gang, commits an offence, and shall be liable, on conviction on indictment, to imprisonment for a term not exceeding fifteen years.

Harbouring or concealing a member of a gang.

9. (1) A person who harbours a person whom he or she knows or ought to know that such person is a member of a gang or is wanted by any law enforcement officer for a gang-related activity commits an offence, and shall be liable, on summary conviction, to imprisonment for a term not exceeding five years.

(2) Where, in subsection (1)—

- (a) the member of a gang or the person who is wanted by a law enforcement officer for a gang-related activity is a child; and
- (b) the person who is convicted is the parent or is acting in *loco parentis* of the child,

the Court, in sentencing the person who is convicted, shall take into consideration mitigating factors such as any efforts made by the convicted person to reform or rehabilitate the child.

(3) A person who conceals a person whom he or she knows or ought to know is a member of a gang or is wanted by a law enforcement officer for a gang-related activity commits an offence, and shall be liable, on summary conviction, to imprisonment for a term not exceeding ten years.

(4) A person who is charged with an offence under the provisions of subsection (3) conceals another person if the person who is charged—

- (a) knows or ought to know that the other person is a member of a gang or is wanted by a law enforcement officer in connection with the investigation or for the commission of a gang-related activity; and
- (b) in response to an enquiry from a law enforcement officer as to the whereabouts of the other person, does not reveal the whereabouts to the officer, despite knowing where the other person is located.

Police powers of entry, search and arrest.

10. (1) A police officer may with a warrant issued by a Magistrate, Registrar of the High Court or a Justice of the Peace, arrest a person whom he or she has reasonable cause to believe to be a member of a gang or whom he or she has reasonable cause to believe has committed an offence under this Act.

(2) A police officer may, with a warrant issued by a Magistrate, Registrar of the High Court or a Justice of the Peace, so enabling him or her to do, enter any dwelling house and search the same if he or she has reasonable cause to believe that a member of a gang may be found in the premises.

(3) A police officer may, with a warrant issued by a Magistrate, Registrar of the High Court or a Justice of the Peace, enter and search any place or premises not used as a dwelling house if he or she has reasonable cause to believe that a member of a gang may be found in such place or premises.

Forfeiture of property.

11. (1) Subject to the provisions of subsections (2) and (3), the court which convicts a person of an offence under this Act shall, in addition to any other penalty, order the forfeiture of any property which, at the time of the offence, he or she had in his or her possession or under his or her control provided it is shown that he or she had such property for the use or benefit of a gang.

(2) Property which is subject to forfeiture pursuant to the provisions of subsection (1) shall include—

- (a) all profits, proceeds and instrumentalities relating to a gang-related activity or the recruitment of persons to the membership of a gang; and
- (b) all property used or intended or attempted to be used to facilitate a gang-related activity or the recruitment of persons to the membership of a gang.

(3) Where a person, other than the convicted person, claims to be the owner of or otherwise interested in any property which may be forfeited by an order made under this section, the Court shall, before making such an order in respect of the property, give that person an opportunity to be heard.

(4) The Court may give directions as to the storage, investment and disposal of property forfeited by order under subsection (1).

PART III

DETERRENCE AND PREVENTION OF AT-RISK YOUTH FROM JOINING GROUPS

Designation of, and assistance to, gang activity areas.

12. (1) The Minister may, after consultation with the Prime Minister, designate as gang activity areas, specific areas that are located within Saint Christopher and Nevis.

(2) The Minister shall not make a designation referred to in subsection (1) without first consulting with and receiving comments from the local elected representatives of the communities within the areas of the proposed designation.

(3) In order to provide assistance to gang activity areas, the Minister shall, in consultation with the Prime Minister—

- (a) establish criminal street group enforcement teams, consisting of such personnel as may be necessary, for the coordinated investigation, disruption, apprehension, and prosecution of criminal street gangs and offenders in each high intensity gang activity area;
- (b) direct the reassignment or detailing from any Government Department or agency of personnel to each anti-gang enforcement team; and
- (c) provide all necessary funding for the operation of the anti-gang enforcement team in each gang activity area.

Criteria for designating a gang activity area.

13. In considering an area for designation as a gang activity area under section 12, the Minister shall consider the following—

- (a) the current and predicted levels of gang-related activities in the area;
- (b) the extent to which violent crime in the area appears to be related to gang-related activities;
- (c) the extent to which the law enforcement agencies have committed resources to respond to the crime problem, and to participate in the enforcement of the provisions of this Act;
- (d) the extent to which a significant increase in the allocation of Government resources would enhance local response to the gang-related activities in the area; and
- (e) any other criteria that the Minister considers to be appropriate.

Minister to give a report to the National Assembly.

14. The Minister shall, every six months, give a report to the National Assembly which describes, for every gang activity area—

- (a) the specific long term and short term goals and objectives;
- (b) the measurements used to evaluate the performance of the gang activity area in achieving the long term and short term goals;

- (c) the age, composition and membership of gangs; and
- (d) the number and nature of crimes committed by gangs.

Establishment of prevention programmes.

15. (1) The Minister may, after consultation with the Prime Minister and with the approval of Parliament, establish gang prevention programmes as a comprehensive, strategic approach to reduce or eliminate crimes, and in so doing may require—

- (a) the identification, investigation, and prosecution of gangs operating within Saint Christopher and Nevis;
- (b) the coordination of the identification, investigation, and prosecution of gangs among law enforcement agencies;
- (c) the coordination and establishment of enforcement teams.

(2) The Minister may, after consultation with the Attorney-General, authorise the hiring of attorneys-at-law to carry out some of the provisions of this section.

Enhancement of resources needed by police etc.

16. (1) Parliament may, for the purposes of this Act, authorise an increase in funding for the gang prevention programmes, and for the support of the law enforcement teams established under this Act.

(2) Parliament may, in the spirit of the provisions of subsection (1), appropriate such sums as may be required for the purposes of this Act, and without prejudice to the generality of the foregoing, such sums may be used to—

- (a) fund technology, equipment, and training for prosecutors and law enforcement in order to increase accurate identification of members of gangs and violent offenders, and to maintain databases with such information to facilitate coordination among law enforcement and prosecutors; and
- (b) create and expand witness and victim protection programmes to prevent threats, intimidation, and retaliation against victims of, and witnesses to violent crimes.

Initiation of gang resistance education and training projects.

17. There shall be initiated such gang resistance education programmes and training projects with a focus on the following—

- (a) instilling in the youth the evils of participating in violence and crime in concert or association with gangs, and how such evils could be avoided;
- (b) creating public awareness on the need to eradicate and prevent violence and gangs that commit crime in concert in the community, and the steps that ought to be taken to achieve that goal;
- (c) reducing crimes committed by gang in concert and youth violence; and
- (d) any other objective or goal which is related or incidental to the foregoing.

Regulations.

18. The Minister may generally make regulations to give effect to the provisions of this Act.

SCHEDULE

(Section 2)

GANG-RELATED ACTIVITY OFFENCES

1. Possession of imitation firearms in pursuance of any criminal offence.
 2. Larceny of a motor vehicle.
 3. Arson.
 4. Receiving stolen goods in the course of gang-related activity.
 5. Being a member of a gang.
 6. Coercing or encouraging a person to become a member of a gang.
 7. Preventing a person from leaving membership of a gang.
 8. Participating in a criminal activity in association with a gang.
 9. Possession of bullet-proof vest, firearm or ammunition for the benefit of a gang.
 10. Harboursing or concealing a member of a gang.
 11. Recruiting a child to be a member of a gang.
 12. Threatening to publish with intent to extort.
 13. Demanding money with menaces.
 14. Murder.
 15. Shooting or wounding with intent to do grievous bodily harm, unlawful wounding.
 16. Robbery.
 17. Robbery with aggravation.
 18. Robbery with violence.
 19. Assault occasioning actual bodily harm.
 20. Possession and use of a firearm or ammunition with intent to endanger life.
 21. Possession of a firearm or ammunition without licence, certificate or permit.
 22. Trafficking in a dangerous drug or being in possession of a dangerous drug for the purpose of trafficking.
 23. Rape.
 24. Grievous sexual assault.
 25. Kidnapping.
 26. Kidnapping for ransom.
 27. Knowingly negotiating to obtain a ransom.
 28. An attempt to commit any offence listed in this schedule.
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