

ABILL

ENTITLED

AN ACT to Make provision for the disruption and suppression of criminal organizations; and for related matters.

WHEREAS the activities of criminal organizations present a danger to public order and public safety and the economic stability of Jamaica:

AND WHEREAS the existing laws of Jamaica fail to adequately disrupt, suppress or otherwise deal with organized crime and the activities of criminal organizations effectively:

AND WHEREAS it is necessary to target the leaders of criminal organizations and criminalize the management of, and related conduct in connection with, enterprises that are involved in criminal activity:

AND WHEREAS the pervasive presence of criminal organizations in many communities is harmful to the well being of those communities

and, therefore, it is necessary to criminalize participation in and promotion of the activities of criminal organizations:

AND WHEREAS it is desirable to restore a sense of security in the Jamaican society and strengthen the capacity of law enforcement agencies to deal with crime effectively:

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NOW, THEREFORE, BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica and by the authority of the same, as follows:—

Short title.

PART I. *Preliminary*

Interpretation.

1. This Act may be cited as Criminal Justice (Suppression of Criminal Organizations) Act, 2014.

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

“adult” means a person of the age of eighteen years or above;

“benefit” includes any money or other property, service or advantage;

“child” means a person under the age of eighteen years;

“Court” means a Resident Magistrate's Court or a Circuit Court;

“criminal activity” means the planned, ongoing, continuous or repeated participation or involvement in any serious offence;

“criminal organization” means any gang, group, alliance, network, combination or other arrangement among three or more persons (whether formally or informally affiliated or organized or whether or not operating through one or more bodies corporate or other associations)—

(a) that has as one of its purposes the commission of one or more serious offences; or

(b) in relation to which the persons who are a part thereof or participate therein (individually, jointly

or collectively) issue threats or engage in violent conduct to—

- (i) create fear, intimidate, exert power or gain influence in communities, or over other persons, in furtherance of unlawful activity; or
- (ii) obtain, directly or indirectly, a financial or other material benefit;

“document” means, in addition to a document in writing, anything in which information of any description is recorded;

“law enforcement officer” means—

- (a) a member of the Jamaica Constabulary Force;
- (b) a member of the Island Special Constabulary Force;
- (c) a member of the Rural Police;
- (d) a Parish Special Constable appointed pursuant to section 2 of the *Constables (Special) Act*;
- (e) an officer or soldier of the Jamaica Defence Force;
- (f) any person, who, in the opinion of the Minister, has the requisite expertise and is so prescribed by the Minister by order published in the *Gazette*; or
- (g) any category of persons so prescribed by the Minister by order published in the *Gazette*;

“premises”, in relation to a school, includes—

- (a) any building, playing field or other premises established or maintained for the benefit of the pupils of a school whether or not such building, playing field or other premises are within the curtilage of the school; and
- (b) any premises for the time being used for the keeping of a school;

“recruit” includes counsel, procure, solicit, incite, coerce or induce;

“school” includes any educational institution within the meaning of section 2 of the *Education Act*;

First Schedule.

“serious offence” means an offence specified in the First Schedule.

PART II. *Offences for the Disruption and Suppression of Criminal Organizations*

Offence of forming or establishing criminal organization.

3.—(1) A person shall not form or establish a criminal organization.

(2) A person who contravenes subsection (1) commits an offence.

Offence of recruitment of child to criminal organization.

4.—(1) A person shall not recruit a child to be a part of or participate in a criminal organization.

(2) A person who contravenes subsection (1) commits an offence.

Offence of recruitment of adult to criminal organization.

5.—(1) A person shall not recruit an adult to be a part of or participate in a criminal organization.

(2) A person who contravenes subsection (1) commits an offence.

Offence of being a part of, participating in or facilitating serious offence by criminal organization.

6.—(1) A person shall not—

- (a) be a part of, or participate in a criminal organization; or
- (b) knowingly facilitate the commission of a serious offence by or on behalf of a criminal organization.

(2) A person who contravenes subsection (1) commits an offence.

(3) Subject to subsection (4), in determining whether a person is a part of or a participant in a criminal organization, the Court may take into account all factors that appear to it to be relevant, including—

- (a) whether the person has admitted that he is a part of or a participant in the criminal organization;
- (b) evidence that the person is or has associated or been involved with the criminal organization or any of its participants with the intent to facilitate the commission of a serious offence or

to promote, further or assist in the criminal activity of a criminal organization;

- (c) evidence of criminal activity by the person that indicates a link or involvement with the criminal organization;
- (d) evidence that the person knowingly assisted in or in any way facilitated the concealment, transportation or disposal of evidentiary material relating to unlawful activity engaged in by the criminal organization;
- (e) evidence that the person knowingly concealed or shared in the proceeds of unlawful activity engaged in by the criminal organization or any of its participants;
- (f) any statement made or information given, distributed or communicated by that person on behalf of, or in the name of, the criminal organization; and
- (g) any statement made by or on behalf of the person, whether oral or in writing, and published or otherwise distributed by him or on his behalf, indicating involvement in the commission of a crime by the criminal organization.

(4) Notwithstanding subsection (3), a person's place of residence shall not be the sole factor in determining whether the person is a part of or a participant in a criminal organization.

7.—(1) A person shall not—

- (a) lead, manage or direct a criminal organization; or
- (b) knowingly counsel, give instruction or guidance to a criminal organization in furtherance of its participation or involvement in criminal activity.

Offence of
leadership, etc. of
criminal
organization.

(2) A person who contravenes subsection (1) commits an offence.

(3) In determining whether a person has committed an offence under this section the Court may take into account all factors that appear to it to be relevant, including—

- (a) evidence of the possession by that person of articles or documents of a kind that would give rise to a reasonable inference that the articles or documents were in his possession

or control for a purpose connected with an offence under this section;

- (b) whether the person knowingly received any benefit from the criminal activity of the criminal organization; and
- (c) any document emanating or purporting to have emanated from the criminal organization from which it can be ascertained or reasonably inferred that, when the offence was alleged to have been committed —
 - (i) the person knowingly gave direction, counsel, instruction or guidance to, or made a request of, any person involved in the criminal organization, in furtherance of the criminal activity of the criminal organization; or
 - (ii) any person involved in the criminal organization sought direction, counsel, instruction or guidance from the person in furtherance of the criminal activity of the criminal organization.

(4) Subsection (1) shall not apply to a person who counsels or gives instruction or guidance with the sole objective of encouraging participants in the activities of a criminal organization to desist from engaging in any criminal activity.

Offence of providing a benefit to or obtaining a benefit from a criminal organization.

8.—(1) A person shall not knowingly provide a benefit to a criminal organization.

(2) A person shall not knowingly obtain a benefit from a criminal organization, or from any of its criminal activity.

(3) A person who contravenes subsection (1) or (2) commits an offence.

(4) In determining whether a person has committed an offence under this section the Court may take into account all factors that appear to it to be relevant, including—

- (a) evidence of activity by the person that is consistent with his having financed in any manner or otherwise provided support to the criminal organization or for any of its criminal activity; and

- (b) evidence of the possession by that person of articles or documents of a kind that would give rise to a reasonable inference that such articles or documents were in his possession or control for a purpose connected with the financing of or the provision of other support to the criminal organization or for any of its criminal activity.

9.—(1) A person shall not knowingly conceal, dispose of or share in the proceeds of the criminal activity of a criminal organization.

Offence of
concealing, etc.
proceeds of
criminal activity of
criminal
organization.

(2) A person who contravenes subsection (1) commits an offence.

10.—(1) A person shall not knowingly aid or abet a criminal organization or become an accessory before or after the fact, in the carrying out of a serious offence by a criminal organization.

Offence of aiding
and abetting, etc.
criminal
organization.

(2) A person shall not harbour or conceal a person, knowing that the person is a part of or a participant in a criminal organization.

(3) A person shall not, in order to promote or facilitate the criminal activity of a criminal organization, incite or induce another person to—

- (a) commit a serious offence; or
- (b) engage in an act of violence or an act that serves to intimidate others.

(4) A person shall not, in order to hinder or prevent the investigation or prosecution of a criminal organization, incite or induce another person to—

- (a) commit a serious offence; or
- (b) engage in an act of violence or an act that serves to intimidate others.

(5) A person shall not conceal, transport, dispose of or tamper with evidentiary material relating to the criminal activity of a criminal organization.

(6) A person who contravenes subsection (1), (2), (3), (4) or (5) commits an offence.

Offence of professing to be a part of or a participant in a criminal organization to obtain benefit.

11.—(1) A person shall not, in order to gain an unlawful benefit, profess to be a part of or a participant in, a criminal organization (whether by telling any person that he is a part of or a participant in a criminal organization or otherwise suggesting to any person that he is a part of or a participant in a criminal organization).

(2) A person who contravenes subsection (1) commits an offence.

Offence of preventing, etc. person from ceasing to be a part of or a participant in criminal organization.

12.—(1) A person shall not take any action to prevent, deter or obstruct a person from ceasing to—

- (a) be a part of or a participant in the activities of a criminal organization; or
- (b) provide a benefit to a criminal organization.

(2) A person who contravenes subsection (1) commits an offence.

Offence of taking retaliatory action.

13.—(1) A person shall not take any retaliatory action against another person or any of that other person's relatives, friends, associates or property, on account of that other person—

- (a) refusing to become a part of or a participant in a criminal organization;
- (b) ceasing to be a part of or a participant in a criminal organization;
- (c) giving information to a law enforcement officer in relation to a criminal organization;
- (d) assisting in an investigation of a criminal organization; or
- (e) giving evidence in the prosecution of any participant in a criminal organization.

(2) A person who contravenes subsection (1) commits an offence.

Offence of impersonating law enforcement officer.

14.—(1) A person shall not, in the furtherance of the criminal activity of a criminal organization—

- (a) put on or assume the dress, name, designation or description of a law enforcement officer; or

- (b) act or identify himself as, or impersonate, a law enforcement officer.

(2) A person who contravenes subsection (1) commits an offence.

15.—(1) The offence described in the first column of the Second Schedule shall, in respect of the section specified in the second column, incur the penalty set out in relation thereto in the third column. Offences and penalties.
Second Schedule.

(2) If an offence under section 4 is committed by a person on the premises or grounds of, or within three hundred metres of, a school or any other educational institution, the person shall be liable to such additional penalty as may be specified in relation thereto in the second column of the Second Schedule.

16.—(1) Subject to subsection (2), where a citizen of Jamaica or a person who is not a citizen of any state and is ordinarily resident in Jamaica, carries out an act or is responsible for an omission outside Jamaica that, if the act or omission had occurred in Jamaica, would constitute an offence under this Act, he commits an offence and is liable to be prosecuted as if the act or omission had occurred in Jamaica. Offence committed overseas.

(2) Subject to section 16(9) of the Constitution of Jamaica, this section shall not apply to a person convicted, acquitted or pardoned in another jurisdiction of an offence in respect of the act or omission.

PART III. *General*

17.—(1) The jurisdiction of a Circuit Court to hear and determine offences under this Act shall be exercised by a Judge sitting without a jury and there shall be no preliminary examination or committal proceedings. Trial procedure.

(2) In the interest of the administration of justice, public safety, public order or public morality, a Court hearing a case in the exercise of its jurisdiction under this Act may direct that—

- (a) the identity of any person, including a witness in the case, shall be protected in the manner specified by the Court;
- (b) in relation to any witness called or appearing before the Court, the name, identity, and address of the witness and such other

particulars concerning the witness, as in the opinion of the Court shall be kept confidential, shall not be published; or

- (c) no particulars of the trial other than the name of the accused, the offence charged and the verdict and sentence shall be published without the prior written approval of the Court.

(3) A person shall not publish any information in contravention of a direction under subsection (2).

(4) A person who contravenes subsection (3) commits an offence and shall be liable—

- (a) on summary conviction in a Resident Magistrate's Court, to a fine not exceeding one million dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment; or
- (b) on conviction on indictment in a Circuit Court, to a fine or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

Power of Minister to amend First Schedule and monetary penalties.
First Schedule.

18.—(1) The Minister may, subject to affirmative resolution, by order published in the *Gazette*, amend the First Schedule.

(2) The Minister may, subject to affirmative resolution, by order published in the *Gazette*, amend the monetary penalties specified in this Act.

Regulations.

19.—(1) The Minister may, subject to affirmation resolution, make regulations, for the better carrying out of the purposes of this Act.

(2) Notwithstanding section 29(b) of the *Interpretation Act*, regulations made under this section may provide in respect of a breach of any of the provisions thereof for the imposition of penalties on summary conviction in a Resident Magistrate's Court of a fine not exceeding one million dollars or imprisonment for a term not exceeding twelve months or of both such fine and imprisonment.

20. The enactments specified in column 1 of the Third Schedule are amended in the manner specified in relation thereto in column 2 of that Schedule.

Amendment of
enactments.
Third Schedule.

21. The provisions of this Act shall be reviewed by a Joint Select Committee of the Houses of Parliament not later than three years after the date of commencement of this Act.

Review of Act.

FIRST SCHEDULE (Sections 2 and 19)

Serious Offences

1. Any offence under the following provisions of the *Agricultural Produce Act*, namely—

- (a) section 16 (Contracts relating to specially protected produce to be recorded and returns of deliveries made);
- (b) section 17 (Carrier's licence);
- (c) section 18 (Use of carrier of vehicles to convey specially protected produce);
- (d) section 19 (Identification of vehicles);
- (e) section 20 (Book to be kept in vehicle when in use);
- (f) section 21 (Failure of driver to keep book in vehicle an offence and offences by carrier);
- (g) section 22 (Selectors and unlicensed persons to account for possession of specially protected produce);
- (h) section 36(a) (Offences).

2. Any offence under the following provision of the *Child Care and Protection Act*, that is to say, section 10 (Prohibition against sale or trafficking of children).

3. Any offence under the following provisions of the *Child Pornography (Prevention) Act*, namely—

- (a) section 3 (Using or involving a child in the production of child pornography);
- (b) section 4 (Producing, distributing, *etc.*, child pornography);
- (c) section 6 (Offences by bodies corporate);
- (d) section 7 (Offences where profit is derived).

4. Any offence under the following provisions of the *Coinage Offences Act*, namely—

- (a) section 3 (Counterfeiting the gold or silver coin);
- (b) section 4 (Colouring counterfeit coin or any pieces of metal with intent to make them pass for gold or silver coin);
- (c) section 5 (Impairing the gold or silver coin with intent, *etc.*);
- (d) section 6 (Unlawful possession of filings or clippings of gold or silver coin);

- (e) section 7 (Buying or selling, *etc.*, counterfeit gold or silver coin for a lower value than its denomination);
 - (f) section 8 (Importing counterfeit coins from beyond seas);
 - (g) section 9 (Exporting counterfeit coins);
 - (h) section 10 (Uttering counterfeit gold or silver coins);
 - (i) section 11 (Uttering accompanied by possession of other counterfeit coin, or followed by a second uttering);
 - (j) section 12 (Having three or more pieces of counterfeit gold or silver coin in possession, *etc.*, with intent, *etc.*);
 - (k) section 13 (Every second offence of uttering, *etc.*, after a previous conviction);
 - (l) section 19 (Making, mending or having possession of any coining tools, felony).
5. Any offence under the following provisions of the *Copyright Act*, namely—
- (a) section 46 (Penalties in respect of dealings which infringe copyright);
 - (b) section 134 (Criminal liability for making, dealing with or using illicit recordings).
6. Any offence under the following provision of the *Corruption (Prevention) Act*, that is to say, section 14 (Acts of corruption).
7. Any offence under the following provisions of the *Country Fires Act*, namely—
- (a) section 3 (Setting fire to crop);
 - (b) section 4 (Setting fire to trash);
 - (c) section 5 (Fires during night or unattended, prohibited).”.
8. Any offence under the *Cybercrimes Act*.
9. Any offence under the following provisions of the *Dangerous Drugs Act*, namely—
- (a) section 3 (Import and export of raw opium and coca leaves);
 - (b) section 5 (Cultivation of opium or coca leaves);
 - (c) section 6 (Export or import of prepared opium);
 - (d) section 7 (Manufacturing, selling, using, *etc.*, prepared opium an offence);

- (e) section 7A (Export or import of ganja);
- (f) section 7B (Cultivating, selling or dealing in, or transporting ganja);
- (g) section 8 (Import and export of cocaine, *etc.*);
- (h) section 8A (Cultivating, selling or dealing in, or transporting cocaine, *etc.*);
- (i) section 11 (Trade, *etc.*, in new drugs, and power to apply Part IV to certain drugs);
- (j) section 21A (Offence of using the postal services for drugs);
- (k) section 22 (Offences and penalties).

10. Any offences under the following provisions of the *Endangered Species (Protection, Conservation and Regulation of Trade) Act*, namely—

- (a) section 18 (Restriction on trade in endangered species);
- (b) section 40 (Unlawful trade in specimen, *etc.*);
- (c) section 41 (Offence of using postal service for transporting endangered species).

11. Any offences under the following provision of the *Firearms Act*, namely—

- (a) section 4 (Restriction on importation, and transshipment of firearms and ammunition);
- (b) section 9 (General restrictions upon manufacture and dealing in firearms and ammunition);
- (c) section 10 (Restrictions upon acquisition or disposal of firearms and ammunition);
- (d) section 13 (General restriction on repair and transfer of firearms and ammunition);
- (e) section 15 (Special restrictions on shortening firearms and converting imitation firearms into firearms);
- (f) section 20 (Possession of firearms and ammunition);
- (g) section 24 (Penalty for possessing firearm or ammunition with intent to injure);
- (h) section 25 (Penalty for use and possession of firearm or imitation firearm in certain circumstances).

12. Any offences under the following provision of the *Fishing Industry Act*, namely—

- (a) section 22 (Penalty for removing fish-pot, *etc.* of another);

- (b) section 23 (Penalty for landing and sale of illegally caught fish).
13. Any offences under the following provisions of the Fishing Industry Regulations, 1976, namely—
- (a) regulation 3 (Fishing beyond the territorial sea of Jamaica without licence, prohibited);
 - (b) regulation 14 (catching, destroying, lobster, *etc.* and using certain mesh sizes for fishing, prohibited).
14. Any offences under the following provisions of the *Forest Act*, namely—
- (a) section 30 (Prohibition of cutting of trees in a forest reserve);
 - (b) section 31 (Offences).
15. Any offences under the following provisions of the Forest Regulations, 2001, namely—
- (a) regulation 13 (Burning permit);
 - (b) regulation 14 (Prohibition of burning substance);
 - (c) regulation 37 (Removal of forest produce);
 - (d) regulation 38 (Protection of fauna);
 - (e) regulation 41 (Riparian areas and buffer zones);
 - (f) regulation 42 (Wetlands).
16. An offence under the following provision of the *Forgery Act*, that is to say, section 4 (Forgery of certain documents with intent to defraud).
17. Any offences under the following provisions of the *Larceny Act*, namely—
- (a) section 13 (Praedial larceny);
 - (b) section 37 (Robbery);
 - (c) section 39 (Burglary);
 - (d) section 40 (House-breaking and committing felony);
 - (e) section 42A (Extortion).
18. Any offence under the following provisions of the *Law Reform (Fraudulent Transactions) (Special Provisions) Act*, namely—
- (a) section 3 (Offence of obtaining property by a false pretence, *etc.*);
 - (b) section 4 (Offence of inviting a person to visit Jamaica by a false pretence);

- (c) section 5 (Offence of using premises for purposes which constitute an offence under Act);
- (d) section 6 (Offence of using an access devise to transfer or transport money or monetary instrument);
- (e) section 7 (Offence of threatening or intimidating a person involved in a criminal investigation or trial of an offence);
- (f) section 8 (Offences relating to theft, forgery, *etc.*, of access device);
- (g) section 9 (Offence of making, repairing, buying, *etc.*, thing for copying data from an access device or forging or falsifying an access device);
- (h) section 10 (Offence of knowingly obtaining or possessing, transmitting, distributing, *etc.*, identity information of a person);
- (i) section 11 (Offence of obtaining a benefit by menace);
- (j) section 12 (Conspiring to commit, aiding, *etc.*, offence).

19. Any offence under the following provisions of the *Malicious Injuries to Property Act*, namely—

- (a) section 3 (Arson of a dwelling house person being therein);
- (b) section 4 (Arson of a house, outhouse, *etc.*);
- (c) section 5 (Arson of a building belonging to railway, port or harbour);
- (d) section 6 (Arson of other buildings of a public character).

20. Any offence under the following provision of the *Metal and Jewellery (Control of Second-Hand) Act*, that is to say, section 3 (No person to deal in second-hand metal or second-hand jewellery without licence).

21. An offence under the following provision of the *Natural Resources Conservation Authority Act*, that is to say, section 18 (Enforcement of controls).

22. An offence under the following provision of the Natural Resources Conservation Authority (Air Quality) Regulations, 2006, that is to say, regulation 44 (Offences).

23. Any offence under the following provisions of the Natural Resources (Hazardous Waste) (Control of Transboundary Movement) Regulations, 2002, namely—

- (a) regulation 6 (Importation of hazardous waste prohibited);

- (b) regulation 8 (Restriction on export of hazardous waste);
- (c) regulation 22 (Offence of illegal traffic in hazardous waste);
- (d) regulation 23 (Offence of failing to return waste).

24. Any offence under the following provisions of the Natural Resources (Marine Parks) Regulations, 1992, namely—

- (a) regulation 3 (Mining in marine park);
- (b) regulation 4 (Removal or destruction of natural features and marine life);
- (c) regulation 5 (Dredging, filling, excavating and building activities);
- (d) regulation 6 (Refuse and polluting substances);
- (e) regulation 8 (Fishing);
- (f) regulation 12 (Explosives and dangerous weapons).

25. Any offence under the following provisions of the *Offences Against the Person Act*, namely—

- (a) section 2 (Murder);
- (b) section 8 (Conspiring or soliciting to commit murder);
- (c) section 13 (Administering poison, or wounding with intent to murder);
- (d) section 14 (Destroying or damaging building with intent to murder);
- (e) section 15 (Setting fire to ship, *etc.*, with intent to murder);
- (f) section 16 (Attempting to administer poison, *etc.*, with intent to murder);
- (g) section 17 (By other means attempting to commit murder);
- (h) section 20 (Shooting or attempting to shoot or wounding with intent to do grievous bodily harm);
- (i) section 70 (Kidnapping with certain intents persons of any age).

26. Any offence under the following provision of the *Parliament (Integrity of Members) Act*, that is to say, section 15 (Offences).

27. Any offence under the following provision of the *Petroleum (Quality Control) Act*, that is to say, section 4 (Restrictions on retailing and transportation of petroleum).

28. Any offence under the following provisions of the *Post Office Act*, namely—

- (a) section 35 (Transmission of prohibited articles);
- (b) section 36 (Fraudulent evasion and false statement on postal articles).

29. An offence under the following provision of the Post Office Regulations 1941, that is to say, regulation 58 (List of prohibitions and restrictions).

30. Any offence under the following provisions of the *Precursor Chemicals Act*, namely—

- (a) section 23 (Offence of unlawfully engaging in prescribed activity and unlawful trade in specified chemical substances);
- (b) section 24 (Offence of unlawful possession of specified chemical substances);
- (c) section 25 (Offence of using a postal service for transporting specified chemical substances).

31. Any offence under the following provisions of the *Praedial Larceny (Prevention) Act*, namely—

- (a) section 11 (Powers of search);
- (b) section 13 (Assaulting, obstructing or threatening an agricultural warden);
- (c) section 14(8) (Disposal of perishable agricultural produce, livestock and fish);
- (d) section 15 (Penalty on possession of clothing, *etc.* by persons not agricultural wardens);
- (e) section 16 (Penalty on unauthorized use of agricultural warden uniform).

32. Any offence under the following provisions of the *Proceeds of Crime Act*, namely—

- (a) section 92 (Concealing, *etc.*, criminal property);
- (b) section 93 (Acquisition, use and possession of criminal property).

33. An offence under the following provision of the *Quarries Control Act*, that is to say, section 5 (Offence to operate quarry without licence).

34. Any offence under the following provisions of the *Road Traffic Act*, namely—

- (a) section 46 (1) (a) (Forging, using, *etc.* any Licence, registration marks or plates, *etc.*);

- (b) section 46 (1) (b) (Giving or lending to person any licence, registration marks or plates, *etc.*);
- (c) section 61 (Using public passenger vehicle in contravention of road licence, *etc.*).

35. An offence under the following provision of the Road Traffic Regulations, 1940 that is to say, regulation 25 (Alteration, mutilation, *etc.*, of registration plates).

36. Any offence under the following provisions of the *Sexual Offences Act*, namely—

- (a) section 3 (Rape);
- (b) section 4 (Grievous sexual assault);
- (c) section 9 (Sexual grooming of child);
- (d) section 10 (Sexual intercourse with person under sixteen);
- (e) section 11 (Householder *etc.*, inducing or encouraging violation of child under sixteen);
- (f) section 13 (Indecent assault);
- (g) section 15 (Abduction of child under sixteen);
- (h) section 16 (Violation of person suffering from mental disorder or physical disability);
- (i) section 17 (Forcible abduction);
- (j) section 18 (Procuration);
- (k) section 19 (Procuring violation of person by threats or fraud or administering drugs);
- (l) section 20 (Abduction of child with intent to have sexual intercourse, *etc.*);
- (m) section 21 (Unlawful detention with intent to have sexual intercourse, *etc.*);
- (n) section 23 (Living on earnings of prostitution).

37. Any offence under the following provisions of the *Terrorism Prevention Act*, namely:—

- (a) section 4 (Providing, making available, *etc.*, property or services for terrorist purposes);
- (b) section 5 (Using or possessing property for terrorist purposes);

- (c) section 6 (Dealing in property for terrorist purposes);
- (d) section 7 (Participation in activity of terrorist group);
- (e) section 8 (Facilitating terrorist activity);
- (f) section 9 (Commission of offence for terrorist group);
- (g) section 10 (Instructing commission of offence for terrorist group);
- (h) section 11 (Instructing to carry out terrorist activity);
- (i) section 12 (Harbouring or concealing);
- (j) section 13 (Information about terrorism offence).

38. An offence under the following provision of the *Trade Marks Act*, that is to say, section 69 (Unauthorized use of trade mark).

39. Any offence under the following provisions of the Trade (Scrap Metal) Regulations, 2013, namely:—

- (a) regulation 3 (Restriction on exportation of scrap metal and other metals);
- (b) regulation 4 (Restriction on export of specified scrap metal without licence, *etc.*);
- (c) regulation 5 (Restriction on sale or purchase of bronze from cemeteries, *etc.*);
- (d) regulation 6 (Restriction on transportation of scrap metal);
- (e) regulation 7 (Restriction on dealing in scrap metal);
- (f) regulation 11 (Restriction on the alteration, *etc.*, of scrap metal);
- (g) regulation 30 (Offence of exporting, *etc.*, scrap metal without licence or certificate);
- (h) regulation 31 (Offence of operating storage facility in contravention of the Act);
- (i) regulation 32 (Offence of exporting without identification number);
- (j) regulation 33 (Offence of corruption by authorized officer).

40. Any offence under the following provisions of the *Trafficking in Persons (Prevention, Suppression and Punishment) Act*, namely—

- (a) section 4 (Trafficking in persons);
- (b) section 5 (Offences by bodies corporate);
- (c) section 15 (Offence of threatening, obstructing, *etc.*, constable).

41. Any offence under the following provisions of the *Treason Felony Act*, namely—

- (a) section 2 (Punishment for intending to depose the Queen, or levy war against her, *etc.*);
- (b) section 3 (Punishment for intending to levy war or excite insurrection, *etc.*);
- (c) section 4 (Punishment for inciting to insurrection or rebellion, *etc.*).

42. Any offence under the following provisions of the *Wild Life Protection Act*, namely—

- (a) section 4 (Hunting, *etc.*, in Game Sanctuary);
- (b) section 6 (Hunting protected animals and protected birds);
- (c) section 6A (Processing protected animal, *etc.*);
- (d) section 7 (Hunting, disposing, *etc.*, of game birds);
- (e) section 8 (Taking turtle eggs);
- (f) section 8A (Hunting of animals and birds in and taking of eggs from the exclusive economic zone);
- (g) section 9 (Taking immature fish);
- (h) section 10 (Dynamite and other noxious materials);
- (i) section 11 (Protection of waters containing fish from trade effluents);
- (j) section 12 (Dealings with fish taken, killed or injured contrary to this Act).

43. An offence under the following provision of the *Wild Life Protection (Protective Zone) Regulations, 1998*, that is to say, regulation 3 (Hunting any animal, fish or bird in protective zone, prohibited).

44. Perverting the course of justice.

SECOND SCHEDULE
Offences and Penalties

| First Column | Second Column | Third Column |
|---|---------------------|---|
| Brief Description of Offence | Relevant Section | Penalty |
| Forming or establishing criminal organization | 3 | On conviction on indictment in a Circuit Court, to imprisonment for a term not exceeding twenty years. |
| Recruitment of child to criminal organization | 4 | On conviction on indictment in a Circuit Court, to imprisonment for a term not exceeding twenty years; and where the offence is committed within three hundred metres of a school, or any other educational institution to imprisonment for an additional term not exceeding ten years. |
| Recruitment of adult to criminal organization | 5 | On conviction on indictment in a Circuit Court, to imprisonment for a term not exceeding twenty years. |
| Being a part of, participating in or facilitating serious offence by criminal organization | 6 | 1. On conviction on indictment in a Resident Magistrate's Court, to imprisonment for a term not exceeding five years. |

| Brief Description of Offence | Relevant Section | Penalty |
|---|---------------------|---|
| | | <p>2. On conviction on indictment in a Circuit Court—</p> <p>(a) first offence, imprisonment for a term not exceeding twenty years;</p> <p>(b) second or subsequent offence, imprisonment for a term not exceeding twenty-five years.</p> |
| Leadership, management or direction of criminal organization | 7 | On conviction on indictment in a Circuit Court, to imprisonment for a term not exceeding thirty years. |
| Counselling, giving instruction or guidance to or procuring criminal organization | 7 | On conviction on indictment in a Circuit Court, to imprisonment for a term not exceeding twenty-five years. |
| Knowingly providing a benefit to criminal organization | 8(3) | <p>On conviction on indictment in a Circuit Court—</p> <p>(a) in the case of an individual, to imprisonment for a term not exceeding twenty years;</p> <p>(b) in the case of a body corporate, to a</p> |

| Brief Description of Offence | Relevant Section | Penalty |
|---|---------------------|---|
| Knowingly obtaining a benefit from criminal organization | 8(3) | <p data-bbox="1019 352 1179 473">fine not ex- ceeding fifty m i l l i o n dollars.</p> <p data-bbox="911 486 1179 553">On conviction on indict- ment in a Circuit Court—</p> <p data-bbox="980 561 1179 795">(a) in the case of an indi- vidual, to imprison- ment for a term not ex- ceeding fif- teen years;</p> <p data-bbox="980 814 1179 1024">(b) in the case of a body corporate, to a fine not exceeding fifty million dollars.</p> |
| Concealing, etc. proceeds of the criminal activity of criminal organization | 9 | <p data-bbox="911 1042 1179 1110">On conviction on indict- ment in a Circuit Court—</p> <p data-bbox="980 1128 1179 1389">(a) in the case of an indi- vidual, to imprison- ment for a term not ex- ceeding t w e n t y years;</p> <p data-bbox="980 1408 1179 1602">(b) in the case of a body corporate, to a fine not exceeding fifty million dollars.</p> |

| Brief Description of Offence | Relevant Section | Penalty |
|---|---------------------|--|
| Knowingly aiding and abetting criminal organization or becoming an accessory before or after the fact in carrying out serious offence | 10(6) | On conviction on indictment in a Circuit Court, to imprisonment for a term not exceeding twenty years. |
| Harbouring or concealing participant in criminal organization | 10(6) | On conviction on indictment in a Circuit Court, to imprisonment for a term not exceeding twenty years. |
| Inciting or inducing person to commit serious offence or act of violence to promote or facilitate activities of criminal organization | 10(6) | On conviction on indictment in a Circuit Court, to imprisonment for a term not exceeding twenty years. |
| Inciting or inducing person to commit serious offence or act of violence to hinder or prevent the investigation or prosecution of criminal organization | 10(6) | On conviction on indictment in a Circuit Court— (a) in the case of an individual, to imprisonment for a term not exceeding twenty years; (b) in the case of a body corporate, to a fine not exceeding fifty million dollars. |
| Concealing, transporting, disposing or tampering with evidentiary material relating to criminal activity of criminal organization | 10(6) | On conviction on indictment in a Circuit Court to imprisonment for a term not exceeding twenty years. |
| Professing to be a part of or participant in criminal organization. | 11 | On conviction on indictment in Resident Magistrate's Court, to imprisonment for a term not exceeding five years. |

| Brief Description of Offence | Relevant Section | Penalty |
|--|---------------------|--|
| Preventing person from ceasing to be a part of or ceasing to provide a benefit to criminal organization. | 12 | <ol style="list-style-type: none"> 1. On conviction on indictment in a Resident Magistrate's Court, to imprisonment for a term not exceeding five years. 2. On conviction on indictment in a Circuit Court, to imprisonment for a term not exceeding twenty years. |
| Taking retaliatory action against former participant in criminal organization | 13 | On conviction on indictment in a Circuit Court, to a fine or imprisonment for a term not exceeding twenty years or to both such fine and imprisonment. |
| Personating law enforcement officer | 14 | On conviction on indictment in a Circuit Court, to a fine or imprisonment for a term not exceeding twenty years or to both such fine and imprisonment. |

THIRD SCHEDULE (Section 21)
Amendment of Enactments

| <u>Act</u> | <u>Amendment</u> |
|---|--|
| Constabulary Force Act | 1. In sections 27 and 28 delete the word "twenty" and the words "three months", respectively, wherever they appear and substitute therefor in each case, the words "five million" and "five years", respectively. |
| Criminal Justice (Administration) Act | <p>In section 54B—</p> <p>(a) delete subsection (1) and substitute therefor the following as subsection (1)—</p> <p style="padding-left: 2em;">“ (1) Subject to subsection (3), the Minister may by order, upon application by the Commissioner and upon being satisfied that it is necessary so to do in the interest of public safety or public order, designate as a restricted person—</p> <p style="padding-left: 4em;">(a) any Jamaican citizen—</p> <p style="padding-left: 6em;">(i) who has been convicted of a specified offence in a foreign state; and</p> <p style="padding-left: 6em;">(ii) who is the subject of a deportation order made in the foreign state or who has elected</p> |

Act
—Amendment
—

to return to
J a m a i c a
from that
state in lieu
of deporta-
tion; or

- (b) any person who has been convicted of an offence under the *Criminal Justice (Suppression of Criminal Organizations) Act*;
- (b) renumber subsections (2), (3), (4) and (5) as subsections (3), (4), (5) and (6), respectively, and insert next after subsection (1) the following as subsection (2)—
- “ (2) Any person who is being considered for designation as a restricted person under subsection (1) shall be a person whose conduct and activities have been of such a nature that the Minister is satisfied that the person should be regarded as constituting a threat to the public safety or public order of Jamaica.”;
- (c) delete from paragraph (b) of subsection (3), as renumbered, the words “subsection (3)” and substitute therefor the words “subsection (4)”;
- (d) in subsection (5), as renumbered, insert immediately after the word “regis-

| Act — | Amendment — |
|-------------------|---|
| | tration,” the words “being subject to electronic monitoring,”; and |
| | (e) delete from subsection (6), as renumbered, the words “subsection (4)” and substitute therefor the words “subsection (5)”. |
| Defence Act | 1. In section 187 delete from subsection (1) all the words appearing after paragraph (c) and substitute therefor the following— “ and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding one million dollars or to imprisonment for a term not exceeding three years or to both such fine and imprisonment, or on conviction on indictment in a Circuit Court to a fine not exceeding five million dollars or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.”. |
| | 2. In section 189, delete from subsection (3)(b) the words “one hundred” and “three months”, respectively and substitute therefor the words “five million” and “five years”, respectively. |
| Finger Prints Act | In the Second Schedule insert next after item 8 the following as item 9— “9. Any offence under the <i>Criminal Justice (Suppression of Criminal Organizations) Act</i> .”. |

| Act — | Amendment — |
|--|--|
| Gun Court Act | <p>In the Schedule insert next after Item 4 the following as Items 5 and 6—</p> <p style="padding-left: 40px;">“5. Any offence under the <i>Law Reform (Fraudulent Transactions) (Special Provisions) Act</i>.</p> <p style="padding-left: 40px;">6. Any offence under the <i>Criminal Justice (Suppression of Criminal Organizations) Act</i>.”.</p> |
| Law Reform (Fraudulent Transaction) (Special Provisions) Act | <p>In section 2, delete the definition for “criminal organization” and substitute therefor the following—</p> <p style="padding-left: 40px;">““criminal organization” means any gang, group, alliance, network, combination or other arrangement among three or more persons (whether formally or informally affiliated or organized or whether or not operating through one or more bodies corporate or other associations)—</p> <p style="padding-left: 80px;">(a) that has as one of its purposes the commission of one or more serious offences; or</p> <p style="padding-left: 80px;">(b) in relation to which the persons who are a part thereof or participate therein (individually, jointly or collectively) issue threats or engage in violent conduct to—</p> <p style="padding-left: 120px;">(i) create fear, intimidate, exert power or gain influence in communities, or over other persons, in furtherance of unlawful activity; or</p> |

| Act — | Amendment — |
|---|---|
| Offences Against <i>the Person Act</i> | <p>(ii) obtain, directly or indirectly, a financial or other material benefit.</p> <p>Insert next after section 18 the following heading and section—</p> <p>“ <i>Use of Audio, Visual or Audiovisual Communication to Promote Criminal Activity</i></p> <p>Use of audio, visual or audiovisual communication to promote criminal activity.</p> <p>18A.—(1) A person shall not produce, record, sell, import, perform in public, circulate or play a recording of, an audio, visual or audiovisual communication that—</p> <p>(a) promotes the killing of or other serious act of violence against any other person or category or group of persons; or</p> <p>(b) seeks to promote, encourage or facilitate the criminal activity of a criminal organization.</p> <p>(2) A person who contravenes subsection (1) commits an offence and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding one million dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.</p> <p>(3) In this section—</p> <p>“audio, visual or audiovisual communication” includes—</p> <p>(a) an article, report, advertisement or other thing communicated by means of a newspaper, magazine or other periodical;</p> |

ActAmendment

- (b) a programme, report, advertisement or other thing communicated by means of television, radio, the Internet or any other form of electronic communication;
- (c) a picture or visual image;
- (d) a song or other musical arrangement; or
- (e) any other method of communicating information;

“criminal organization” means any gang, group, alliance, network, combination or other arrangement among three or more persons (whether formally or informally affiliated or organized or whether or not operating through one or more bodies corporate or other associations)—

- (a) that has as one of its purposes the commission of one or more serious offences; or
- (b) in relation to which the persons who are a part thereof or participate therein (individually, jointly or collectively) issue threats or engage in violent conduct to—
 - (i) create fear intimidate, exert power

| <u>Act</u> | <u>Amendment</u> |
|--|--|
| | <p>or gain influence in communities, or over other persons, in furtherance of unlawful activity; or</p> <p>(ii) obtain, directly or indirectly, a financial or other material benefit.”.</p> |
| Parole Act | <p>In section 6—</p> <p>(a) delete from subsection (4) the words “subsections (4A) and (5)” and substitute therefor the words “subsections (4A),(4B) and (5)”; and</p> <p>(b) insert next after subsection (4A) the following as subsection (4B)—</p> <p style="padding-left: 40px;">“ (4B) Subject to subsection (5), an inmate who has been sentenced to a term of imprisonment of fifteen years or more for an offence committed under the <i>Criminal Justice (Suppression of Criminal Organizations) Act</i>, shall be eligible for parole after having served a period of not less than ten years.”.</p> |
| Trafficking in Persons (Prevention, Suppression and Punishment) Act | <p>In section 4A(4), delete the definition of “criminal organization” and substitute therefor the following—</p> <p>“criminal organization” means any gang, group, alliance, network, combination or other</p> |

Act**Amendment**

arrangement among three or more persons (whether formally or informally affiliated or organized or whether or not operating through one or more bodies corporate or other associations)—

- (a) that has as one of its purposes the commission of one or more serious offences; or
- (b) in relation to which the persons who are a part thereof or participate therein (individually, jointly or collectively) issue threats or engage in violent conduct to—
 - (i) create fear, intimidate, exert power or gain influence in communities, or over other persons, in furtherance of unlawful activity; or
 - (ii) obtain, directly or indirectly, a financial or other material benefit.”.

**Unlawful
Possession of
Property Act**

1. In section 5(4), delete the words “two thousand” and substitute therefor the words “one million”.
2. In section 6, delete the words “two thousand” and substitute therefor the words “one million”.
3. In section 10, delete the words “two thousand” and substitute therefor the words “one million”.

Act

Amendment

4. In section 11(2), delete the words "two thousand" and substitute therefor the words "one million".
5. In section 13, delete the words "one hundred" and substitute therefor the words "two hundred and fifty thousand".

Passed in the House of Representatives this 18th day of February, 2014 with twenty-two (22) amendments.

LLOYD B. SMITH
Deputy Speaker.

MEMORANDUM OF OBJECTS AND REASONS

The activities of criminal organizations present a danger to public order and safety and the economic stability in Jamaica, however, the existing laws of Jamaica fail to adequately disrupt, suppress and deal effectively with organized crime and the activities of criminal organizations. Consequently, this Bill seeks to create offences for the disruption and suppression of criminal organizations in order to restore a sense of security in the Jamaican society and strengthen the capacity of law enforcement agencies to deal with crime effectively.

A criminal organization is defined in the Bill as any gang, group, alliance, network, combination or other arrangement among three or more persons (whether formally or informally affiliated or organized or whether or not operating through one or more bodies corporate or other associations)—

- (a) that has as one of its purposes the commission of one or more serious offences; or
- (b) in relation to which the persons who are a part thereof or participate therein (individually, jointly or collectively) issue threats or engage in violent conduct to—
 - (i) create fear, intimidate, exert power or gain influence in communities, or over other persons, in furtherance of unlawful activity; or
 - (ii) obtain, directly or indirectly, a financial or other material benefit.

The serious offences the commission of which would distinguish a criminal organization, are to be found in a number of Acts and are specified in the First Schedule.

The Bill seeks to prohibit, among other things—

- (a) the formation or establishment of a criminal organization;
- (b) taking part in or participation in a criminal organization;
- (c) the exercise of leadership functions at any level of the organizational structure of a criminal organization;
- (d) the provision of a benefit to or obtaining a benefit from a criminal organization;
- (e) the concealing, disposing of or sharing in the proceeds of the criminal activity of a criminal organization;
- (f) the facilitation of the activities of a criminal organization or knowingly aiding or abetting a criminal organization to commit a serious offence;
- (g) the harbouring or concealment of a participant in a criminal organization;
- (h) the concealing, transporting, disposing of or tampering with evidentiary material relating to the criminal activity of a criminal organization; and

- (i) retaliatory action against a person who has left a criminal organization.

Penalties for these offences range from five years to thirty years.

Except in a few instances where provision is made for offences to be tried in a Resident Magistrate's Court, the Bill provides for the offences to be tried in a Circuit Court. This will be by a Judge sitting alone. In the interest of the administration of justice, public safety, public order or public morality the Court may direct that the identity of a witness and other particulars of the case be kept confidential and not be published.

A review of the provisions of the Bill is mandated not later than three years after the date of its commencement.

The Bill seeks further to effect consequential amendments to—

- (a) the *Constabulary Force Act*;
- (b) the *Criminal Justice (Administration) Act*;
- (c) the *Defence Act*;
- (d) the *Finger Prints Act*;
- (e) the *Gun Court Act*;
- (f) the *Law Reform (Fraudulent Transactions) (Special Provisions) Act*;
- (g) the *Offences Against the Person Act*;
- (h) the *Parole Act*;
- (i) the *Trafficking in Persons (Prevention, Suppression and Punishment) Act*; and
- (j) the *Unlawful Possession of Property Act*.

PETER BUNTING, M.P.
Minister of National Security.

A BILL

ENTITLED

**AN ACT to Make provision for the disruption
and suppression of criminal organizations;
and for related matters.**

As passed in the Honourable House of Representatives.

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