
CHAPTER 64A**JUSTICE PROTECTION**

LIST OF AUTHORISED PAGES

1 - 24 LRO 1/2017

ARRANGEMENT OF SECTIONS**SECTION****PART I – PRELIMINARY**

1. Short title.
2. Interpretation.

PART II

3. Corruption of witness preventing witness from attending court etc.
4. Intimidating a witness an offence.
5. Prosecution of offences.
6. Insulting a participant in judicial proceedings.

PART III

7. Definitions in Part III.
8. Witness safety.
9. Establishment of Justice Protection Programme.
10. Administrative Centre.
11. Functions of Administrative Centre.
12. Cases to be considered for protection.
13. Disclosure of information to the Centre.
14. Consolidated Fund.

PART IV - WITNESS UNDERTAKING

15. Witness Undertaking.

PART V - REGISTER OF PARTICIPANTS

16. Register of participants.
17. Access to register

PART VI - PROTECTION UNDER THE JUSTICE PROTECTION PROGRAMME

18. Rights and obligations.
19. Identity issues.
20. Cessation of protection and assistance.
21. Restoration of former identity.
22. Provision of information to an approved authority.

PART VII - PRIVACY OF PROGRAMME AND REGULATIONS

23. Officers protected from suit in respect of decisions made under this Act.
24. Offences.
25. Officers not required to disclose information.
26. Requirement where participant becomes a witness in criminal proceedings.
27. Identity of participant not to be disclosed.
28. Annual reports to other Centres.
29. Regulations.

FIRST SCHEDULE (Section 7) — CONTENTS OF WITNESS UNDERTAKING**SECOND SCHEDULE (Section 12) — OFFENCES WHICH MAY GIVE RISE TO PROTECTION UNDER THE JUSTICE PROTECTION PROGRAMME**

CHAPTER 64A

JUSTICE PROTECTION

An Act to protect persons appearing as witnesses in judicial proceedings by providing for their participation in a programme designed for ensuring their safety as would enable them to carry out their civic duty as witnesses with confidence when there is a threat to their safety or property arising from or related to their carrying out of that duty and to provide for matters incidental to judicial proceedings.

*6 of 2006
S.I. 62/2006
2 of 2014*

[Assent 3rd May, 2006]

[Commencement 27th September, 2006]

PART I – PRELIMINARY

1. This Act may be cited as the Justice Protection Act. Short title.

2. In this Act — Interpretation.

“disciplined force” has the meaning assigned to it in Article 31 of the Constitution and includes the Customs Department and the Immigration Department;

“judicial proceeding” includes —

- (i) any civil or criminal trial;
- (ii) proceedings under Parts V and X of the Criminal Procedure Code Act; Ch. 91.
- (iii) an inquiry held under the Commissions of Inquiry Act; Ch. 184.
- (iv) any inquiry or investigation held by a judicial officer or member of a disciplined force in pursuance of any duty or authority; and
- (v) any proceeding held pursuant to a statute by a tribunal or body authorised by that statute to summon persons to appear before it;

“Judicial Officer” has the same meaning as in section 6 of the Penal Code; Ch. 84.

2 of 2014, s. 2.

“obstruction of justice” means an attempt to interfere with the administration of the courts, the judicial system, judges and law enforcement officials including threatening witnesses, improper conversations with jurors, hiding evidence or interfering with an arrest;

“testimony” includes information to a member of a disciplined force or to an investigator or member of a Commission of Inquiry or person assisting in the gathering of information to be used in a judicial proceeding.

PART II

Corruption of witness preventing witness from attending court etc.

- 3.** (1) Any person —
- (a) who gives, confers or procures, or promises or offers to give or confer, or to procure or attempt to procure, any property or benefit of any kind to, upon, or for, any person, under any agreement or understanding that any person —
- (i) called or to be called as a witness in any judicial proceeding; or
- (ii) interviewed or to be interviewed by a member of a disciplined force,
- shall give false testimony or withhold true testimony,
- (b) who attempts by any other means to induce a person —
- (i) called or to be called as a witness in any judicial proceeding; or
- (ii) interviewed or to be interviewed by a member of a disciplined force,
- to give false testimony; or
- (c) who asks, receives or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself or for any other person under any agreement or understanding that any person shall as a witness or in giving a statement in any judicial proceeding give false testimony or withhold true testimony,

is guilty of an offence.

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- (2) Any person —
- (a) who gives, confers, or promises or offers to give or confer, or to procure or attempt to procure, any property or benefit of any kind to, upon, or for any person, because such person gave false testimony or withheld true testimony in a judicial proceeding; or
 - (b) who asks, receives or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself or for any person because he has given false testimony or withheld true testimony in a judicial proceeding,

is guilty of an offence.

(3) Any person who wilfully prevents or attempts to prevent any person who has been duly summoned to attend as a witness before any court or tribunal from attending as a witness, or from producing anything in evidence pursuant to the subpoena or summons, is guilty of an offence.

(4) Any person who having been duly summoned to appear as a witness in any judicial proceedings takes measures to evade or evades the service upon him of the summons is guilty of an offence and shall be liable on summary conviction to imprisonment for three years.

- 4.** Any person who —
- (a) threatens, intimidates or restrains;
 - (b) uses physical force, violence to or inflicts injury on;
 - (c) gives undue advantage to induce false testimony;
 - (d) interferes in the giving of true testimony or production of evidence in any judicial proceeding;
 - (e) causes or procures violence, damage, loss or disadvantage to; or
 - (f) causes or procures the punishment of, or loss of employment of, a person for or on account of his —
 - (i) appearing or being about to appear as a witness in a judicial proceeding;
 - (ii) appearing or being about to appear before a disciplined force to give information;

Obstruction of
Justice.
2 of 2014, s. 3.

- (iii) appearing or being about to appear as a juror;
- (iv) presiding or being about to preside over a matter as a Magistrate or Judge;
- (v) hearing and determining an appeal as the President or Justice of Appeal;
- (vi) being involved in a criminal matter as a law enforcement official;
- (vii) being involved in a criminal matter as a prosecutor;
- (viii) being involved in a matter as a witness care official; or
- (ix) being involved in a matter as a public servant acting under a duty,

has obstructed justice and is guilty of an offence.

Prosecution of offences.

5. Every person guilty of an offence under section 3 or 4 for which no other penalty is provided shall in respect of each offence, be liable —

- (a) on conviction on information to imprisonment for ten years;
- (b) on summary conviction to imprisonment for five years.

Insulting a participant in judicial proceedings.

6. Any person who insults a person for or on account of his having appeared or being about to appear —

- (a) as a witness or attorney at law in a judicial proceeding; or
- (b) before a member of a disciplined force to give information,

is guilty of an offence and shall be liable on summary conviction to imprisonment for twelve months.

PART III

Definitions in Part III.

7. In this and following Parts —
“approved authority” means —

- (i) the Attorney-General;
- (ii) the Director of Public Prosecutions;
- (iii) a disciplined force;

(iv) a Commission of Inquiry appointed under the Commissions of Inquiry Act;

Ch. 184.

(v) the Centre;

“court” means the Supreme Court, or Magistrate’s Court and includes a Commission of Inquiry or statutory body empowered by statute to hear testimony;

“the Minister” means the Minister assigned responsibility for national security;

“the relevant period” in relation to a person who has given a written statement in an investigation into an offence or into a matter of public inquiry or the subject of civil proceedings means the period beginning with the date of the making of the statement and ending at such time as is agreed between the witness and the Attorney-General and stipulated in the witness undertaking;

“Justice Protection Programme” or “programme” means the Programme referred to in section 9;

“Administrative Centre” or “Centre” means that unit constituted by the Minister within the Ministry responsible for National Security for the purpose of overseeing the Justice Protection Programme;

“witness” means a person who has given, is obliged to give or has agreed to give a statement or evidence or both, as the case may be —

(i) to an approved authority in relation to a crime that has been committed or in respect of which there are reasonable grounds to believe will be committed; or

(ii) in a criminal trial; or

(iii) in any civil proceedings;

(iv) to the duly authorised representative of a Commission of Inquiry constituted under the Commission of Inquiry Act or of a body empowered by statute to conduct inquiries;

Ch. 184.

“witness undertaking” means a document signed by the respective witness that contains those matters set out in the First Schedule as are applicable to the witness.

First Schedule.

Witness safety.

8. (1) Where the Attorney-General after consultation with the Director of Public Prosecutions and the Commissioner of Police determines that it would be in the interest of the safety of a witness that measures be taken to place the witness within an environment either within or without The Bahamas for the purpose of ensuring that safety and the attainment of the interest of justice during the relevant period, the Attorney-General may, subject to subsection (2) refer the matter to the Administrative Centre to take such measures as it considers necessary for the purpose of placing the witness in the Justice Protection Programme.

(2) The Attorney-General shall ensure that prior to the reference to the Administrative Centre the witness has signed in the prescribed manner a written request for measures to be taken to secure his safety and that any measures to be taken are such that would enable compliance with any directions that may subsequently be given by a court.

Establishment of
Justice Protection
Programme.

9. (1) The Minister in consultation with the Attorney-General shall establish a programme to be known as the Justice Protection Programme for the purpose of providing to participants in accordance with this Act, protection and assistance.

(2) Without prejudice to subsection (3) and notwithstanding anything to the contrary in this Act the Minister responsible for Foreign Affairs in consultation with the Minister may enter into —

- (a) a reciprocal arrangement with the government of a foreign jurisdiction to enable a witness who is involved in activities of a law enforcement agency in that jurisdiction to be admitted to the programme;
- (b) an arrangement with an international criminal court or tribunal to enable a witness who is involved in activities of that court or tribunal to be admitted to the programme;
- (c) any Memorandum of Understanding or Agreement with representatives of a foreign state for the purpose of the carrying out of the programme.

(3) No person may be admitted to The Bahamas pursuant to any such agreement or arrangement as is mentioned in subsection (2) without the consent of the Minister

responsible for immigration nor admitted to the programme without the consent of the Minister.

(4) Any person who is admitted from abroad into the programme shall be required to enter into a witness undertaking and the provisions of this Act regarding any breach of terms and conditions pertaining to the programme shall *mutatis mutandis* apply to that person as they apply to a witness of an approved authority.

10. (1) The Minister shall establish within the Ministry a unit to be known as the Administrative Centre consisting of personnel of the Ministry and such other public officers as the Minister considers necessary.

Administrative
Centre.

(2) The Minister may by Regulations provide for the establishment of an Investigative Agency and a Protective Agency to assist the Administrative Centre in the admission, selection, processing and monitoring of persons who are or may become participants of the Programme and prescribe the functions of each agency to facilitate the carrying out of the Programme.

11. (1) Subject to this Act, the Administrative Centre shall develop, manage and maintain the Justice Protection Programme and shall as far as reasonably practical give effect to any reference made by the Attorney-General to it under section 8(1) without prejudice to the Centre requesting the Attorney-General to review the reference by reason of any information which the Centre has acquired after investigation.

Functions of
Administrative
Centre.

(2) In performing its functions under this Act, the Centre shall —

- (a) liaise with any approved authority and with Administrative Centres of any foreign state;
- (b) determine after consultation with the Director of Public Prosecutions and the Commissioner of Police the level and duration of protection or assistance for a prospective participant based on related threat and risk assessments;
- (c) obtain from a prospective participant, such information as may be required to determine —
 - (i) the financial implications of admitting the prospective participant to the Programme; and

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- (ii) the actual or potential civil and criminal liability of the prospective participant;
 - (d) require if considered necessary the prospective participant to undergo, for the purpose of determining his physical and mental health —
 - (i) medical tests or examinations; and
 - (ii) psychological or psychiatric evaluations, and authorise the results to be made available to the Centre;
 - (e) require the prospective participant to conclude a witness undertaking with the Centre, detailing the terms and conditions of his participation in the Programme;
 - (f) arrange for the provisions of safe-houses;
 - (g) co-ordinate and relay to appropriate regional authorities relevant information on threat and risk assessments and other related matters;
 - (h) develop guidelines for the effective operation of the national programme;
 - (i) establish budgetary requirements of the Programme;
 - (j) make payments for the subsistence and other requirements of participants;
 - (k) take cognizance of the high cost and complexity of providing adequate protection for participants.
- (3) The Administrative Centre shall, in deciding whether to include a prospective participant in the Programme, have regard to —
- (a) any criminal record of the prospective participant particularly in respect of crimes of violence and whether that record indicates a risk to the public if he is included in the Programme;
 - (b) the results of any medical, psychological or psychiatric examination or evaluation of the prospective participant conducted to determine his suitability for inclusion in the Programme;
 - (c) the seriousness of the offence to which any relevant evidence or statement relates;

- (d) the nature and importance of any relevant evidence or statement;
- (e) whether there are viable alternative methods of protecting the prospective participant;
- (f) the nature of the perceived danger to the prospective participant;
- (g) the nature of the prospective participant’s relationship with other prospective participants being assessed for inclusion in the Programme;
- (h) the expected duration of the protection or assistance expended to be provided; and
- (i) any other matters that the Centre considers relevant.

12. (1) The Justice Protection Programme shall as regards a criminal matter be only available to offer protection or assistance or both to participants in —

Cases to be considered for protection.

- (a) matters involving the offences set out in the Second Schedule;
- (b) any matter not being within paragraph (a) but which the Minister, after consultation with the Attorney-General and the Commissioner of Police, considers having regard to its gravity and the public interest necessitates use of the Programme.

Second Schedule.

(2) The Minister may by Order, after consultation with the Attorney-General and the Commissioner of Police amend the Second Schedule.

Second Schedule.

13. (1) Notwithstanding section 8(1) and subject to subsection (2) the Administrative Centre shall not place a prospective participant for inclusion in the Programme unless it is satisfied that the person has provided the Centre with all the information the Centre considers necessary for deciding whether he should be included in the programme.

Disclosure of information to the Centre.

(2) In the performance of its functions in accordance with section 11, the Centre shall not offer to include a prospective participant in the Programme as an inducement to give evidence or to make a statement in relation to any matter being investigated by a member of a disciplined force.

(3) Without limiting the generality of subsection (1) a prospective participant shall disclose to the Centre —

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- (a) details of all of his outstanding legal obligations;
 - (b) details of all of his outstanding debts including amounts outstanding in respect of any tax;
 - (c) details of his criminal history;
 - (d) details of any civil proceedings that have been instituted by or against him;
 - (e) details of any cash balances in bank accounts and property, real or personal, held anywhere by him in his own name or jointly or severally with any other person or persons as the case may be;
 - (f) whether any of his property, real or personal, is liable to forfeiture or confiscation under any other law;
 - (g) details of any business dealing in which he is involved;
 - (h) details of any court order relating to sentences imposed on him or to which he is subject in relation to criminal prosecutions;
 - (i) details of his general medical condition;
 - (j) details of any relevant court orders or arrangements relating to his custody of or access to children; and
 - (k) details of any arrangements that he has made for —
 - (i) the service of documents on him;
 - (ii) representation in proceedings in any court;
 - (iii) enforcement of judgments in his favour; or
 - (iv) compliance with the enforcement of judgments against him.

(4) The Centre shall make such other enquiries and investigations as it considers necessary for the purpose of assessing whether the prospective participant including where necessary members of his family, if any, should be included in the Programme and for that purpose the Centre may with the approval of the Minister appoint from among its members persons to constitute an investigative agency.

Consolidated
Fund.

14. (1) Without prejudice to subsection (2) all expenses incurred by the Centre in respect of the Justice Pro-

tection Programme are hereby charged upon the Consolidated Fund.

(2) Where the expenses referred to in subsection (1) are in respect of a witness in proceedings relating to criminal conduct within the meaning of the Proceeds of Crime Act the Minister of Finance may, notwithstanding anything to the contrary in that Act, authorise the use of monies standing to the credit of the Confiscated Assets Fund to meet those expenses.

Ch. 93.

PART IV - WITNESS UNDERTAKING

15. (1) The Administrative Centre shall, subject to the approval of the Minister, prepare a Witness Undertaking which shall, subject to subsection (2), contain the matters set out in the First Schedule.

Witness Undertaking.

First Schedule.

(2) The Administrative Centre, may, where it considers necessary in a particular case, include any other matter in a Witness Undertaking.

(3) The Witness Undertaking shall be signed —

- (a) by the prospective participant; or
- (b) where the circumstances so require by a parent or guardian if the participant is under eighteen years of age or otherwise lacks legal capacity to sign,

and in the presence of two witnesses, one of whom may be the participant's attorney-at-law.

(4) A prospective participant is included in the Justice Protection Programme when the Witness Undertaking is countersigned by the person authorised by the Minister for the purpose.

(5) The Witness Undertaking may be varied by the Minister —

- (a) after consultation with the Administrative Centre and with the participant's consent; or
- (b) upon application by the participant for a variation with which the Minister agrees.

(6) The variation referred to in subsection (5) shall take effect on the day on which the participant receives written notice thereof.

(7) Where a participant remains in the Programme upon attaining the age of eighteen years, the Administrative Centre shall require him to sign a Witness Undertaking on his own behalf upon his attaining that age.

PART V - REGISTER OF PARTICIPANTS

Register of participants.

16. (1) The Administrative Centre shall maintain a register of participants which shall be accorded a security classification not below “Top Secret”.

(2) The register may be maintained by electronic means.

(3) The Centre shall include in the register, the following details in respect of each participant —

- (a) the participant’s name and assumed names, if any;
- (b) the participant’s new name where he has been provided with a new identity under the Justice Protection Programme;
- (c) the participant’s address;
- (d) details of any offences for which the participant has been convicted;
- (e) the dates on which the participant entered and left the Programme;
- (f) the matter giving rise to his entry into the Programme; and
- (g) details of any approval or refusal pursuant to section 19(1).

(4) The Centre shall keep the following documents (hereinafter referred to as “ancillary documents”) along with the register —

- (a) the original of each Witness Undertaking;
- (b) in respect of new identities, copies of each new document issued under the Programme;
- (c) the original of each approval granted by the Centre pursuant to section 19(1); and
- (d) any documents returned to the Centre pursuant to section 21(5).

17. (1) Subject to subsections (2) and (3), the Administrative Centre shall be the only approved authority that shall have access to the register and to the ancillary documents referred to in section 16.

Access to register.

(2) The Centre may, if it is of the opinion that it is in the interest of the due administration of justice to do so, allow another approved authority to have access to the register and the ancillary documents.

(3) Where the Centre allows an approved authority access to the register and the ancillary documents, the Centre shall notify the other approved authorities of —

- (a) the identity of the authority to whom the access was allowed;
- (b) the information to which the authority was allowed access;
- (c) the reasons for allowing access; and
- (d) the date and time of such access.

PART VI - PROTECTION UNDER THE JUSTICE PROTECTION PROGRAMME

18. (1) Where a participant is entitled to exercise a right or is under an obligation or is subject to any restriction, the appropriate approved authority shall take such steps as are reasonably practicable to ensure that —

Rights and obligations.

- (a) the right or obligation is dealt with according to law; and
- (b) the participant complies with the restriction.

(2) The steps referred to in subsection (1) may include —

- (a) providing protection for the participant while the participant is attending court; and
- (b) notifying a party or possible party to legal proceedings, that the authority shall accept process issued by a court or tribunal on behalf of the participant, and nominating one of its officers for the purpose.

(3) Where the authority is satisfied that a participant who has been provided with a new identity under the Justice Protection Programme is using the new identity to —

- (a) avoid obligations that were incurred before the new identity was established; and
- (b) avoid complying with restrictions that were imposed on the participant before the new identity was established,

the authority shall give notice in writing to the participant stating that unless he satisfies the authority that the obligations are dealt with according to law or the restriction be complied with, the authority shall take such action as it considers necessary to ensure performance of the obligations or compliance with the restrictions.

(4) The action referred to in subsection (3) may include informing a person who is seeking to enforce rights against the participant, of the details of any property, real or personal, owned by the participant under his former identity.

Identity issues.

19. (1) The competent authority responsible under any law for the issuing of documents that pertain to the identity or status of a person shall notwithstanding anything to the contrary in that law be deemed to have the requisite authority to give effect to any request made by the Minister for the issue of, or amendment to any existing document or record in relation to the identity or status of a participant.

(2) A participant who has been provided with a new identity under the Justice Protection Programme shall not disclose his former identity unless he has obtained the prior written approval of the Administrative Centre.

(3) Notwithstanding subsection (1) and any other written law, the participant shall in any proceedings, be entitled to claim that his new identity is his only identity.

(4) In this section, “participant” includes a person who is no longer participating in the Programme but retains his new identity.

Cessation of protection and assistance.

20. (1) Protection or assistance provided under the Justice Protection Programme to a participant —

- (a) shall be terminated by the Centre if the participant requests in writing that it be terminated; or
- (b) may be terminated by the Centre if —
 - (i) the participant deliberately breaches a term of the Witness Undertaking;

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- (ii) the Centre discovers that the participant had knowingly given information to the Centre that was false or misleading in a material particular;
 - (iii) the participant's conduct is, in the opinion of the Centre, likely to compromise the integrity of the Programme;
 - (iv) the circumstances that gave rise to the need for protection or assistance for the participant, cease to exist;
 - (v) the participant deliberately breaches an undertaking, including an undertaking to give evidence, in relation to a matter, material and relevant to the Programme;
 - (vi) the participant refuses or fails to sign a new Witness Undertaking when required to do so under section 15(7); or
 - (vii) there is, in the opinion of the Centre, no reasonable justification for the participant to remain in the Programme.

(2) Where the Centre decides under subsection (1) (b) to terminate protection or assistance or both under the Programme, the Centre shall —

- (a) take reasonable steps to notify the participant of the decision; and
- (b) notify the other approved authorities of the decision.

(3) A participant who receives such a notification may, within twenty-eight days after receiving the notice, apply in writing to the Minister for a review of the decision of the Centre.

(4) Where a participant applies for a review of the decision of the Centre, the Minister shall —

- (a) allow the participant a reasonable opportunity to state his case;
- (b) review the decision of the Centre and —
 - (i) confirm or reverse it; or
 - (ii) vary it with the consent of the participant,

and inform the participant, in writing, of the decision.

(5) A decision of the Centre pursuant to subsection (1) (b) to terminate protection or assistance or both, shall be effected as follows —

- (a) where the participant's whereabouts are unknown and the Centre has taken reasonable steps to notify the participant of the decision but has been unable to do so or where, in the opinion of the Minister, the participant is avoiding notification, the protection shall be terminated at the end of the period of twenty-eight days after those steps were commenced;
- (b) where the participant does not apply for a review of the decision in accordance with subsection (3), termination shall take effect at the end of the period of twenty-eight days after the participant receives the notification; or
- (c) if the participant applies for a review of the decision in accordance with subsection (3) and the Minister notifies the participant that the decision of the Centre is confirmed, termination shall take effect from the date of receipt of the notification.

Restoration of former identity.

21. (1) Where a participant has been provided with a new identity under the Justice Protection Programme and protection or assistance to the participant is terminated, the Administrative Centre may, if it considers it appropriate to do so, take such action as is necessary to restore the former participant's former identity.

(2) The Centre shall take reasonable steps to notify the former participant of its decision under subsection (1).

(3) Where the Centre proposes to take action to restore the identity of the former participant, he may, within twenty-eight days after receiving the notification, apply in writing to the Minister for a review of the decision of the Centre.

(4) Where an application is made, the Minister shall —

- (a) before making a decision, give the former participant a reasonable opportunity to state his case; and
- (b) review the decision of the Centre and confirm or reverse it, and inform the former participant, in writing, of the decision.

(5) Where the Centre takes action under this section to restore the identity of the former participant and the Centre requests the return of all documents that were provided in relation to the new identity, he shall return those documents to the Centre within seven days of his receipt of the request.

22. Where another approved authority notifies the Administrative Centre that a participant who has been provided with a new identity or has been relocated, is under investigation for, or has been arrested or charged with an offence, the maximum penalty for which is or includes imprisonment for a period of more than one year, the Centre may —

Provision of information to an approved authority.

- (a) provide the appropriate approved authority with —
 - (i) the participant's new identity;
 - (ii) the participant's criminal record and fingerprints; and
 - (iii) such other information relating to the Justice Protection Programme as the Centre considers appropriate in the circumstances; and
- (b) cause the participant to appear before the appropriate authority.

PART VII - PRIVACY OF PROGRAMME AND REGULATIONS

23. Officers of the Administrative Centre performing functions in relation to the Programme, shall not be liable to any action, suit or other proceedings in respect of an act done or omitted to be done in good faith in the exercise or purported exercise of a power conferred by this Act.

Officers protected from suit in respect of decisions made under this Act.

24. (1) A person who, without lawful authority, discloses information —

Offences.

- (a) about the identity or location of a person who is or has been a participant;
- (b) that compromises the safety or security of a participant or the integrity of the Programme,

commits an offence.

(2) A person who is or has been a participant or a person who has undergone assessment for inclusion in the Justice Protection Programme and discloses —

- (a) the fact of such participation or assessment;
- (b) information as to the way in which the Programme operates;
- (c) information about any officer of the Administrative Centre who is or has been involved in the Programme;
- (d) the fact that he has signed a Witness Undertaking; or
- (e) any details of a Witness Undertaking that he has signed,

commits an offence unless he has been authorised by the Centre to make the disclosure.

- (3) A person who —
 - (a) offers a bribe or other inducement to any person employed in the administration of this Act, for the purpose of obtaining information which could prejudice the safety or security of a participant or the integrity of the Programme; or
 - (b) being a person employed in the administration of this Act, accepts any bribe or other inducement in exchange for the information referred to in paragraph (a),

commits an offence.

(4) A person who commits an offence under subsection (1), (2) or (3) is liable on summary conviction to a fine of fifteen thousand dollars and to imprisonment for five years.

(5) A person who without reasonable excuse fails to return the documents referred to in section 21(5) in accordance with that section, commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for three years.

Officers not required to disclose information.

25. (1) Subject to subsection (2), an officer of the Administrative Centre shall not be required to —

- (a) produce in any court or to another approved authority, any document that has come into the custody or control of the Centre in the course of or

because of the performance of functions or duties under this Act; or

- (b) divulge, communicate or produce to or before such a body, any matter or thing that has come to the notice of the officer in the performance of functions or duties under this Act,

except where it is necessary to do so for the purpose of carrying the provisions of this Act into effect.

(2) Where, in the determination of legal proceedings, it becomes necessary for the Judge or Magistrate presiding, to be advised of the participant's location and circumstances, an officer referred to in subsection (1) shall disclose the relevant information to the Judge or Magistrate in chambers but the officer shall not disclose the information if any person other than the Judge or Magistrate is present.

(3) The Judge or Magistrate shall not disclose any information received under subsection (2) otherwise than in accordance with this Act.

26. (1) Where —

- (a) a person is provided with a new identity under the Justice Protection Programme;
- (b) the person retains that identity, whether or not he remains a participant; and
- (c) the person is to appear as a witness in criminal proceedings under that identity,

Requirement where participant becomes a witness in criminal proceedings.

the person shall notify the Administrative Centre that he is to appear as a witness in such proceedings.

(2) After being notified under subsection (1), the Centre may take any action it considers appropriate in the circumstances, except that where the person has a criminal record, the Centre shall disclose that criminal record to the court, the prosecutor and the accused person or the accused person's legal representative.

27. If in any proceedings in any court, the new identity of a person who is a participant is in issue or may be disclosed, the court shall, unless it considers that the interests of justice require otherwise —

Identity of participant not to be disclosed.

- (a) hold that part of the proceedings that relate to the identity of the participant in camera; and

- (b) make such order restricting the publication of evidence given before the court as in its opinion will ensure that the identity of the participant is not disclosed.

Annual reports to other Centres.

28. (1) Subject to subsection (2), the Administrative Centre may submit to any Administrative Centre in any foreign state annual reports on the general operation, performance and effectiveness of the Justice Protection Programme.

(2) A report under subsection (1) shall not contain any matter which in the opinion of the Centre, is likely to prejudice the effectiveness or security of the Programme.

Regulations.

29. (1) The Minister may make regulations prescribing all matters which are required or permitted to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act and without prejudice to the generality of the foregoing, regulations as to the establishment and constitution of divisions within the Ministry to assist in the administration of the programme.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations respecting the establishment of new identities for participants.

(3) Regulations made under subsection (2) are subject to affirmative resolution of Parliament.

FIRST SCHEDULE (Section 7)**CONTENTS OF WITNESS UNDERTAKING**

1. The basis on which a prospective participant is to be included in the Justice Protection Programme.
2. The details of the protection or assistance that is to be provided.
3. The terms and conditions upon which protection or assistance shall be provided to the prospective participant.
4. An undertaking that the participant will not compromise, directly or indirectly, the security of, or any other aspect of the protection or assistance, or both, being provided.
5. An undertaking that the participant will comply with all reasonable directions of the Centre in relation to the protection or assistance, or both, provided to him.
6. An undertaking that the prospective participant or participants, as the case may be, shall, if required to do so by the Administrative Centre —
 - (a) undergo medical tests or examinations and psychological or psychiatric evaluations by medical officers approved by the Centre for those purposes;
 - (b) undergo drug or alcohol counselling or treatment,and authorise that the results be made available to the Centre.
7. A list of all outstanding legal obligations and a statement by the prospective participant, of the arrangements which have been made to meet those obligations.
8. A final support arrangement.
9. An undertaking by the prospective participant to disclose to the Centre, details of any criminal charges that are made against him, and any civil or bankruptcy proceedings that are instituted against him after his inclusion in the Programme.

10. A provision to the effect that protection or assistance under the Programme may be terminated if the prospective participant breaches a term of the Witness Undertaking.

SECOND SCHEDULE (Section 12)

**OFFENCES WHICH MAY GIVE RISE TO PROTECTION
UNDER THE JUSTICE PROTECTION PROGRAMME**

Murder

Manslaughter

Treason

Possession or use of firearms and ammunition with intent to injure

Possession or use of firearms in furtherance of any criminal offence

Aggravated assault

Shooting or wounding with intent to do grievous bodily harm

Robbery

Robbery-with aggravation

Armed robbery

Arson

Any sexual offence

Any drug trafficking offence

Kidnapping

Any money laundering offence

Offences under the Anti-Terrorism Act

Offences under the Prevention of Bribery Act

Any domestic violence offence

2 of 2014, s. 4.

Anti-gang offences

Participation in an organized criminal group

Obstruction of Justice

Trafficking in persons.