

OBJECTS AND REASONS

This Bill would regulate the performance of official duties in Barbados by members of police forces visiting Barbados and civilian personnel attached to those forces during the period of Cricket World Cup 2007 and for related matters.

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SCHEDULE

BARBADOS

A Bill entitled

An Act to regulate the performance of official duties in Barbados by members of police forces visiting Barbados and civilian personnel attached to those forces during the period of Cricket World Cup 2007 and for related matters.

ENACTED by the Parliament of Barbados as follows:

Preliminary

- Short title. **1.** This Act may be cited as the *Visiting Police Forces (ICC Cricket World Cup 2007) Act, 2007*.
- Interpretation. **2.** In this Act,
- Cap. 15. "CARICOM" means the Caribbean Community established by the Revised Treaty of Chaguaramas signed in the Bahamas on 5th July, 2001;
- "civilian personnel" means the civilian component of a visiting police force;
- "Commissioner" means the Commissioner of Police of Barbados;
- "court" means a court of ordinary criminal jurisdiction in Barbados and includes a court of summary jurisdiction;
- "designated state" means a state that is designated under section 4;
- "Police Force" means the Royal Barbados Police Force;
- "Member State" means a Member State of CARICOM;
- "Treaty on Security Assistance" means the Treaty on Security Assistance among CARICOM Member States signed at Basseterre in St. Kitts and Nevis on 6th July 2006, including any amendments or protocols thereto;
- "visiting police force" means the members of any police force of a designated state present in Barbados in connection with official duties for the purposes of this Act.

Application of the Act

3. This Act applies in respect of visiting police forces and the civilian personnel of a state designated pursuant to section 4. Application.

4. (1) The countries listed in the Schedule are designated states for the purposes of this Act. Designated states.

(2) The Minister may by order amend the *Schedule*. Schedule.

5. For the purposes of this Act and Article 10 1(a) of the Treaty, the Commissioner shall be responsible for the operational direction of the visiting police forces. Operational direction.

Powers and Immunities of Visiting Police Forces

6. (1) Any member of a visiting police force who is sent to Barbados to perform police duties similar to duties performed by him in his State during Cricket World Cup 2007 shall, while on duty in Barbados, perform the same duties under and in accordance with the directions of the Commissioner in the same manner and in all respects as if he were a member of the Police Force. Status of members of visiting police forces.

(2) Subject to this Act, the members of a visiting police force shall have the same rights, powers, privileges and immunities as are conferred by law on members of the Police Force as may be necessary for the performance of their duties.

7. (1) Notwithstanding section 6(2), the members of a visiting police force shall be immune from prosecution in criminal court proceedings in Barbados in respect of actions taken in the course of their official duties. Immunity from prosecution.

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

Jurisdiction

Criminal
jurisdiction.

8. (1) Subject to subsection (2) and section 7, the court has the primary right to exercise jurisdiction in respect of any act that constitutes an offence against any law in force in Barbados that is committed by a member of a visiting police force.

(2) With respect to the alleged commission of an offence by a member of a visiting police force in relation to

- (a) the property or security of the designated state; or
- (b) the person or property of another member of the visiting police force,

the competent court of the relevant designated state has the primary right to exercise jurisdiction.

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

Certificate concerning official duty.

10. Where under section 8 a competent court of a designated state has the primary right to exercise jurisdiction, the court having the primary right has the right to deal with charges against alleged offenders in the first instance, but that right may be waived by the designated state.

Trial by court having primary right.

11. Members of a visiting police force acting in the course of their duties, may, if authorised to do so by the Commissioner, possess and carry explosives, ammunition and firearms.

Firearms.

Claims Against Visiting Police Forces

12. For the purposes of the *Crown Proceedings Act*,

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

Claims against designated States. Cap. 197.

Enforcement of judgment. **13.** A member of a visiting police force is not subject to any proceedings for the enforcement of any judgment given against him in Barbados in respect of a matter that arose while he was acting within the scope of his official duties or employment.

Ships. **14.** Except where section 12 may be made applicable by order of the Minister in respect of the ships of any particular designated state, that section does not apply to a claim arising out of or in connection with the navigation, operation or salvage of a ship or the loading, carriage or discharge of cargo, unless the claim is a claim arising out of death or injury to the person.

Official duty. **15.** Where a question that cannot be settled by negotiation between the parties arises under sections 12 to 16 as to whether

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

the question must be submitted to an arbitrator appointed in accordance with section 16, and for the purposes of sections 12 to 16, the decision of the arbitrator is final and conclusive.

Arbitration. **16.** (1) An arbitrator must be appointed for the purposes of section 15 by agreement between the designated state concerned and Barbados from among the nationals of Barbados who hold or have held high judicial office.

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

Taxation

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

18. (1) A member of a visiting police force is exempt from taxation in Barbados on the salary and emoluments paid to him as a member of a visiting police force by a designated state and in respect of any tangible movable property that is in Barbados temporarily by reason of his presence in Barbados in that capacity. Salaries.

(2) For the purposes of section 17 and this section, the term "member of a visiting police force" does not include a citizen of Barbados who is resident or ordinarily resident in Barbados.

19. No tax or fee is payable in respect of the licensing or registration of service vehicles of a visiting police force or in respect of the use of those vehicles on any road in Barbados. Service vehicle.

20. (1) A visiting police force may import into Barbados, equipment, provisions, supplies and other goods for the exclusive use of the visiting police force free of customs duty and any tax. Customs duties and other taxes.

(2) A member of a visiting police force may, at the time of his first arrival to take up service in Barbados, import his personal effects free of customs duty and any tax.

(3) No customs duty or any tax is payable on any fuel, oil or lubricants intended for use exclusively in the service vehicles, aircraft or vessels of a visiting police force during the performance of the official duties of the members of the visiting police force.

Miscellaneous

Enactments
relating to
the police
force.

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

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

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

(2) The Minister may by order

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

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

- (a) the Police Force, its members, or any other person connected therewith; or
- (b) any property used or to be used for the purposes of the Police Force,

the Minister may by order extend the prohibition, restriction or requirement to any visiting police force in the same manner as if the visiting police force were a part of the Police Force.

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

(5) Subsections (1) and (4) apply whether the power is exercisable, or the prohibition, restriction or requirement is imposed, by a provision expressly relating to the Police Force or by a more general provision; and subsection (3) applies whether the exemption, privilege or immunity subsists, or is capable of being conferred, by virtue of such a provision or by reason of any enactment not binding the Crown.

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

Coroner's
inquest.

(2) Subject to subsection (1), a coroner referred to in that subsection shall, unless the Governor-General otherwise directs, adjourn the inquest if the coroner is satisfied

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

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

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

(5) In this section,

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

(6) In determining for the purposes of this section whether a person is, or was at any time, a permanent resident of Barbados, no account shall be taken of any period during which he has been, or intends to be present in Barbados,

- (a) as a member of a visiting police force or of a civilian component of such a force; or
- (b) as a dependant of a member of a visiting police force or of a civilian component of such a force.

23. This Act binds the Crown.

Act to bind
the Crown.

24. This Act expires on 31st May 2007.

Expiry of
Act.

SCHEDULE

(Section 4(1))

Designated States

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