

JUSTICE PROTECTION ACT

CHAPTER 5:33

Act
78 of 2000
Amended by
12 of 2011

Current Authorised Pages

<i>Pages</i> <i>(inclusive)</i>	<i>Authorised</i> <i>by L.R.O.</i>
1-6	..
7-26	..
27-33	..

Index of Subsidiary Legislation

	<i>Page</i>
Justice Protection Regulations (LN 96/2007)	28
Justice Protection (Prescribed Forms) Regulations (LN 97/2007)	30

CHAPTER 5:33

JUSTICE PROTECTION ACT

ARRANGEMENT OF SECTIONS

SECTION

PART I

PRELIMINARY

1. Short title.
2. Commencement.
3. Interpretation.

PART II

THE JUSTICE PROTECTION PROGRAMME

4. Establishment of the Justice Protection Programme and Agencies.
5. Functions of the Administrative Centre.
6. Cases to be considered for protection.
7. Disclosure of certain information to the Administrative Centre.
8. Inclusion of prospective participants in Programme.
9. Functions of the Investigative Agency.
10. Director of Public Prosecutions to submit applications.
11. Functions of the Protective Agency.

PART III

MEMORANDUM OF UNDERSTANDING

12. Memorandum of Understanding.

PART IV

REGISTER OF PARTICIPANTS

13. Register of participants.
14. Access to register.

PART V

**PROTECTION UNDER
THE JUSTICE PROTECTION PROGRAMME**

15. Rights and obligations.

ARRANGEMENT OF SECTIONS—*Continued*

SECTION

- 16. Non-disclosure of former identity.
- 17. Cessation of protection and assistance.
- 18. Restoration of former identity.
- 19. Provision of information to an approved authority.

PART VI

MISCELLANEOUS

- 20. Officers protected from suit in respect of decisions made under this Act.
- 21. Offences.
- 22. Officers not required to disclose information.
- 23. Requirement where participant becomes a witness in criminal proceedings.
- 24. Identity of participant not to be disclosed.
- 25. Annual reports to the Board.
- 26. Regulations.
- 27. Transitional.

FIRST SCHEDULE.

SECOND SCHEDULE.

CHAPTER 5:33

JUSTICE PROTECTION ACT

An Act to provide for the establishment of a programme for the protection of certain witnesses and other persons; and to provide for matters incidental thereto. 78 of 2000.

*[ASSENTED TO 27TH OCTOBER 2000]

PART I

PRELIMINARY

1. This Act may be cited as the Justice Protection Act. Short title.
2. This Act came into operation on 4th April 2007. Commencement.
[76/2007].
3. In this Act—Interpretation.
[12 of 2011].
 - “Administrative Centre” or “Centre” means the department or Ministry charged with responsibility for the development, management and maintenance of the Justice Protection Programme;
 - “Agreement” means the Agreement Establishing the Regional Justice Protection Programme, signed at Port-of-Spain on 7th July 1999;
 - “approved authority” or “authority” means—
 - (a) the Attorney General;
 - (b) the Director of Public Prosecutions;
 - (c) the Administrative Centre;
 - (d) the Commissioner of Police;
 - (e) any other person or body that the Minister may, from time to time, designate as an approved authority;
 - “associate” means a person including a family member of that person who, by virtue of his relationship or association with

*See section 2 for date of commencement of this Act.

a participant or prospective participant, may be considered for protection or assistance or both, under the Justice Protection Programme;

“Contracting Party” means a Party to the Agreement;

“Investigative Agency” means the Agency charged with the functions set out in section 9;

“Justice Protection Programme” or “Programme” means the Justice Protection Programme established under section 4;

“Minister” means the Minister to whom responsibility for the Justice Protection Programme is assigned;

“participants” means witnesses, jurors, judicial officers, legal officers, law enforcement personnel, associates of such persons and any other persons to whom protection or assistance or both is given under the Justice Protection Programme;

“Protective Agency” means the Agency charged with the functions set out in section 11;

“risk assessment” means an evaluation of the risk or danger which a participant is likely to pose for the receiving community, having regard to the matters specified in paragraphs (a), (d) and (e) of the definition of “threat assessment” and any other factor considered relevant in a particular case;

“threat assessment” means an evaluation of the danger to a prospective participant based on, but not limited to information on—

- (a) persons who are the subject of judicial or administrative proceedings concerning the case, in relation to which the prospective participant has given evidence or is required to give evidence;
- (b) any criminal organisation interested in the relevant proceedings;
- (c) the nature of the threat to the prospective participant;
- (d) the names and other identifying data of all persons who are likely to pose a danger to the prospective participant;

- (e) where appropriate, the prospective participant's association with persons referred to in paragraph (a) or his involvement in the illegal activity giving rise to the proceedings referred to in that paragraph;
 - (f) the immediacy of the threat;
- “witness” means a person who has given, is obliged to give or has agreed to give a statement or evidence or both—
- (a) in relation to a crime that has been committed or in respect of which there are reasonable grounds to believe has been committed or will be committed;
 - (b) to an approved authority in relation to a crime that has been committed or in respect of which there are reasonable grounds to believe has been committed or will be committed;
 - (c) in a criminal trial;
 - (d) in any civil proceedings.

PART II

THE JUSTICE PROTECTION PROGRAMME

4. (1) The Minister shall establish a programme to be known as the Justice Protection Programme, for the purpose of providing to participants, subject to this Act, protection or assistance or both.

Establishment of the Justice Protection Programme and Agencies.

(2) For the purposes of administering the Programme, the Minister shall, by Regulations made under section 26, provide for the establishment of the following Agencies:

- (a) an Administrative Centre;
- (b) an Investigative Agency; and
- (c) a Protective Agency.

ADMINISTRATIVE CENTRE

5. (1) Subject to this Act, the Administrative Centre shall develop, manage and maintain the Justice Protection Programme

Functions of the Administrative Centre.

and shall be responsible for deciding whether a prospective participant is to be afforded protection or assistance or both, under the Programme.

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

- (a) liaise with other approved authorities and with Administrative Centres of other Contracting Parties;
- (b) liaise where necessary, with appropriate authorities in the territories of non-Contracting Parties;
- (c) determine the participants in the Justice Protection Programme;
- (d) determine after consultation with the Investigative Agency and the Director of Public Prosecutions, the level and duration of protection or assistance for a prospective participant, based on the assessments referred to in subsection (3)(a);
- (e) obtain such information as may be required to determine—
 - (i) the financial implications of admitting the prospective participants to the Programme; and
 - (ii) the actual or potential civil and criminal liability of the prospective participant;
- (f) require the prospective participant to conclude a Memorandum of Understanding with the Centre, detailing the terms and conditions of his participation in the Programme;
- (g) arrange for the provision of safe-houses on the written recommendations of the Investigative Agency or the Protective Agency on the basis of threat and risk assessments;
- (h) develop guidelines for the effective operation of the Programme;
- (i) establish budgetary requirements of the Programme;

- (j) make payments in connection with the protection and assistance provided under this Act;
- (k) take cognisance of the high cost and complexity of providing adequate protection for participants;
- (l) co-ordinate and relay to approved authorities of Contracting Parties, relevant information on threat and risk assessments and other related matters.

(3) In the performance of its functions in accordance with subsection (2)(c), the Administrative Centre shall—

- (a) in relation to criminal matters, make a determination on the basis of written assessments received from—
 - (i) the Investigative Agency;
 - (ii) the Director of Public Prosecutions; and
 - (iii) the Protective Agency;
- (b) in relation to civil matters and enquiries under the Commissions of Enquiry Act, make a determination on the basis of written assessments received from—
 - (i) the Investigative Agency;
 - (ii) the Attorney General; and
 - (iii) the Protective Agency.

Ch. 19:01.

(4) 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 or assisting 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 to be provided; and
- (i) any other matters that the Centre considers relevant.

(5) Action which may be taken by the Administrative Centre to facilitate the safety and security of participants may include the following:

- (a) providing any documents necessary—
 - (i) to establish a new identity for the participant; and
 - (ii) to protect the participant;
- (b) permitting a participant to use an assumed name in carrying-out his duties in relation to the Programme and to carry documentation supporting the assumed name;
- (c) providing payments to or for the participant for the purpose of—
 - (i) meeting his reasonable living expenses including, where appropriate, living expenses of his family; and
 - (ii) providing, whether directly or indirectly, other reasonable financial assistance;
- (d) providing payments to the participant for the purpose of meeting costs associated with relocation;

- (e) providing assistance to the participant in obtaining employment, access to education and health care;
- (f) providing other assistance to the participant with a view to ensuring that the participant becomes self-sustaining.

6. (1) The Administrative Centre may offer protection or assistance or both under the Justice Protection Programme in respect of the offences set out in the First Schedule.

Cases to be considered for protection.
First Schedule.

(2) The Minister may by Order, after consultation with the Director of Public Prosecutions and the Commissioner of Police, amend the First Schedule.

7. (1) Notwithstanding section 5(3), the Administrative Centre shall not include a prospective participant in the Programme unless—

Disclosure of certain information to the Administrative Centre.

- (a) it is satisfied that the person has provided the Centre with the information required of him under subsection (2); and
- (b) it receives such other information as may be required in the case or under this Act.

(2) A prospective participant shall disclose to the Centre—

- (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—
 - (i) any cash balances in bank accounts; and
 - (ii) 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 enterprise whatsoever, in which he is involved, that may yield him a monetary return;
- (h) details of receivables and all sources of income;
- (i) details of his general medical condition;
- (j) details of any dependents and related obligations;
- (k) details of any Court order relating to sentences imposed on him or to which he is subject in relation to criminal prosecutions;
- (l) details of any relevant Court orders or arrangements relating to his custody of or access to children; and
- (m) 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.

(3) The Centre shall make such other inquiries and investigations as it considers necessary for the purpose of assessing whether the prospective participant should be included in the Programme.

Inclusion of prospective participants in Programme.

8. The Administrative Centre shall not include a prospective participant in the Programme unless—

- (a) subject to section 10, he applies in the prescribed form to be included;
- (b) the Centre is satisfied that he understands the implications of being included in the Programme;
- (c) he understands and signs a Memorandum of Understanding in accordance with the provisions of this Act or if he is under eighteen

years of age or otherwise lacks legal capacity to sign the Memorandum—

- (i) it is signed by a parent or guardian; or
- (ii) if there is no such parent or guardian, it is signed by a person appointed by the High Court to be his guardian.

THE INVESTIGATIVE AGENCY

9. In relation to the possible inclusion of a prospective participant in the Justice Protection Programme, the Investigative Agency—

Functions of the Investigative Agency.

- (a) shall make investigations and submit to the Administrative Centre, the application referred to in section 8(a) which shall be accompanied by the following documents prepared by the Investigative Agency:
 - (i) an assessment of that application;
 - (ii) a threat assessment including a prison report where the prospective participant is in prison; and
 - (iii) a risk assessment;
- (b) shall provide protection for the prospective participant in the period prior to the determination referred to in section 5(3)(a); and
- (c) may, in a case of emergency, apply to the Administrative Centre for provisional entry into the Programme by the prospective participant, prior to the determination referred to in paragraph (b).

THE DIRECTOR OF PUBLIC PROSECUTIONS

10. (1) In relation to criminal matters, the Director of Public Prosecutions shall, where he is satisfied that the circumstances so warrant, prepare and submit an application in the prescribed form, to the Administrative Centre for a prospective applicant's entry into the Justice Protection Programme.

Director of Public Prosecutions to submit applications.

(2) An application referred to in subsection (1) shall be made after the Director of Public Prosecutions has—

- (a) in the case of a prospective participant who is likely to be a witness—
 - (i) determined that the testimony of the prospective participant is credible and essential; and
 - (ii) formed the opinion that the prospective participant can be relied upon to give the testimony;
- (b) determined that a juror, judicial officer, legal officer, law enforcement officer or any of their associates, is in need of protection or assistance or both.

(3) An application under this section shall be accompanied by detailed information on—

- (a) the significance of the case;
- (b) the prospective defendant;
- (c) the testimony of the prospective participant; and
- (d) the anticipated benefits of a successful prosecution.

(4) For the purposes of subsection (2)(b), “legal officer” includes an Attorney-at-law in private practice.

THE PROTECTIVE AGENCY

Functions of the Protective Agency.

11. (1) For the purposes of this Act, the Protective Agency shall—

- (a) submit a report to the Centre on the suitability of a prospective participant for entry into the Justice Protection Programme and for that purpose shall—
 - (i) interview the prospective participant with a view to establishing his suitability for entry into the Programme;
 - (ii) examine the threat and risk assessments submitted to the Administrative Centre pursuant to section 9(a); and

- (iii) require a prospective participant or a participant, as the case may be, to undergo, for the purpose of determining his physical and mental health, medical tests or examinations and psychological or psychiatric evaluations and to authorise the results to be made available to the Protective Agency;
- (b) protect participants and persons accorded provisional entry pursuant to section 9(c);
- (c) relocate participants where necessary; and
- (d) carry out periodic reviews of threat and risk assessments.

PART III

MEMORANDUM OF UNDERSTANDING

12. (1) The Administrative Centre shall, subject to the approval of the Minister, prepare a Memorandum of Understanding which shall, subject to subsection (2), contain the matters set out in the Second Schedule.

Memorandum of Understanding.

Second Schedule.

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

(3) The Memorandum of Understanding shall be signed—

- (a) by the prospective participant; or
- (b) where the circumstances so require, by the person referred to in section 8(c), 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 Memorandum of Understanding is countersigned by the person authorised by the Minister for the purpose.

(5) The Memorandum of Understanding 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.

(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 Memorandum of Understanding on his own behalf upon his attaining that age.

PART IV

REGISTER OF PARTICIPANTS

Register of participants.

13. (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 16(1).

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

- (a) the original of each Memorandum of Understanding;
- (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 16(1); and
- (d) any documents returned to the Centre pursuant to section 18(5).

14. (1) Subject to this section, 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 13.

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 V

PROTECTION UNDER THE JUSTICE PROTECTION PROGRAMME

15. (1) Where a participant is entitled to exercise a right, is under an obligation or is subject to any restriction, the

Rights and obligations.

appropriate approved authority shall take such steps as are reasonably practicable to ensure that—

- (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.

Non-disclosure
of former
identity.

16. (1) 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.

(2) 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.

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

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

Cessation of protection and assistance.

- (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 Memorandum of Understanding;
 - (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 Memorandum of Understanding when required to do so under section 12(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.

18. (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.

Restoration of 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.

19. 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

Provision of information to an approved authority.

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—

- (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 VI

MISCELLANEOUS

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

20. 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.

Offences.

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

- (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 Memorandum of Understanding; or
- (e) any details of a Memorandum of Understanding 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 ten years.

(5) A person who, without reasonable excuse fails to return the documents referred to in section 18(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.

22. (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

Officers not required to disclose information.

- (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 a 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.

Requirement where participant becomes a witness in criminal proceedings.

23. (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,

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.

Identity of participant not to be disclosed.

24. 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—

- (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.

25. (1) Subject to subsection (2), the Administrative Centre shall submit to the Board, annual reports on the general operation, performance and effectiveness of the Justice Protection Programme.

Annual reports to the Board.

(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.

(3) In subsection (1), “Board” means the Board of Governors referred to in Article 5 of the Agreement.

26. (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.

Regulations.

(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.

27. Any Memoranda of Understanding or any arrangements with any persons in relation to protection or assistance that existed at the commencement of this Act, shall continue in force on the same terms and conditions until they are replaced by Memoranda of Understanding under this Act.

Transitional.

Section 6.

FIRST SCHEDULE

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

Murder

Manslaughter

Treason

Sedition

Piracy or hijacking

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 Larceny Act, Chap. 11:12

Offences under the Prevention of Corruption Act, Chap. 11:11

Offences under the Criminal Offences Act, Chap. 11:01

Any domestic violence offence

SECOND SCHEDULE

Section 12.

CONTENTS OF MEMORANDUM OF UNDERSTANDING

The basis on which a prospective participant is to be included in the Justice Protection Programme;

The details of the protection or assistance that is to be provided;

The terms and conditions upon which protection or assistance shall be provided to the prospective participant;

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;

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;

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;

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;

A financial support arrangement;

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;

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

SUBSIDIARY LEGISLATION

JUSTICE PROTECTION REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation.

PART I

PRELIMINARY

2. Interpretation.

PART II

ADMINISTRATIVE CENTRE

3. Establishment of Administrative Centre.
4. Co-operation.

PART III

THE INVESTIGATIVE AGENCY

5. Establishment of Investigative Agency.

PART IV

THE PROTECTIVE AGENCY

6. Establishment of Protective Agency.
-

JUSTICE PROTECTION REGULATIONS

96/2007.

made under section 26

1. These Regulations may be cited as the Justice Protection Regulations. Citation.

PART I

PRELIMINARY

2. In these Regulations “the Act” means the Justice Protection Act. Interpretation.

PART II

ADMINISTRATIVE CENTRE

3. The Administrative Centre (“the Centre”) is hereby established for the purposes of the Act. Establishment of Administrative Centre.

4. (1) The Centre may with the approval of the Minister make arrangements with and enter into memoranda of understanding and co-operate with— Co-operation.

- (a) any department of Government;
- (b) the Police Service;
- (c) the Defence Force; or
- (d) any person,

for the purpose of the Act.

(2) In relation to subregulation (1)(d), “person” includes a corporation but does not include a participant or a prospective participant in the Justice Protection Programme.

PART III

THE INVESTIGATIVE AGENCY

5. (1) The Investigative Agency is hereby established for the purposes of the Act. Establishment of Investigative Agency.

(2) The functions of the Investigative Agency shall be performed by the Police Service.

PART IV

THE PROTECTIVE AGENCY

Establishment
of Protective
Agency.

6. (1) The Protective Agency is hereby established for the purposes of the Act.

(2) The functions of the Protection Agency shall be performed by the Police Service.

97/2007.

**JUSTICE PROTECTION (PRESCRIBED FORMS)
REGULATIONS**

made under section 26

Citation.

1. These Regulations may be cited as the Justice Protection (Prescribed Forms) Regulations.

Interpretation.

2. In these Regulations “the Act” means the Justice Protection Act.

Prescribed
Forms.

3. The forms required to be prescribed under sections 8(a) and 10(1) of the Act are the forms set out as Form 1 and Form 2, respectively, in the Schedule.

SCHEDULE

FORM 1

Regulation 3.

**APPLICATION BY A PROSPECTIVE PARTICIPANT
TO BE INCLUDED IN THE JUSTICE PROTECTION
PROGRAMME**

I,
(block letters), hereby apply for protection under the Justice

Protection Programme.

I am also known as

My current address is:

Date of Birth: Occupation: Next of Kin:

Address of Next Kin:

.....

Details of any previous protection (if any, including the name of the
Investigating Officer):

Signature:

Date:

Regulation 3.

FORM 2

APPLICATION BY THE DIRECTOR OF PUBLIC PROSECUTIONS FOR A PROSPECTIVE PARTICIPANT TO BE INCLUDED IN THE JUSTICE PROTECTION PROGRAMME

1. Name of Prospective participant:
2. Current Address of Prospective Participant:
.....
3. Name of Investigating Officer:
4. Criminal Proceedings in which Prospective Participant is in need of Protection:
.....
5. The Prospective Participant is likely to be a Witness and I have determined that the testimony of that person is credible and essential. Further, I have formed the opinion that the person can be relied upon to testify.
6. (1) The Prospective Participant is—
 - a witness
 - an associate
 - a juror
 - a judicial officer
 - a legal officer
 - a law enforcement officer(2) I have determined that the person is in need of protection.
7. This case is significant for the following reasons:
.....
.....
.....

8. Relevant details of the Prospective Participant:

.....
.....
.....

9. Testimony of Prospective Participant attached in the following form:

Statement	<input type="checkbox"/> yes	<input type="checkbox"/> no
Deposition	<input type="checkbox"/> yes	<input type="checkbox"/> no
Trial Transcript	<input type="checkbox"/> yes	<input type="checkbox"/> no

10. Anticipated benefits (if any):

.....
.....
.....

I Director of Public Prosecutions having satisfied myself that circumstances so warrant, hereby apply for protection for the above-mentioned Prospective Participant under the Justice Protection Programme.

Dated thisday of, 20.....

Director of Public Prosecutions
