

No. of 2020. Counter-Financing (Proliferation of Weapons of Saint Christopher
Mass Destruction) Bill, 2020 and Nevis.

SAINT CHRISTOPHER AND NEVIS

No. of 2020

A BILL to prevent, disrupt and criminalise the financing of the proliferation of weapons of mass destruction

BE IT ENACTED by the Queen’s Most Excellent Majesty, by and with the advice and consent of the National Assembly of Saint Christopher and Nevis and by the authority of the same as follows:

1. **Short Title.**

This Act may be cited as the Counter-Financing (Proliferation of Weapons of Mass Destruction) Bill, 2020.

2. **Interpretation.**

In this Act, unless the context otherwise requires:

“entity” includes a legal person and legal arrangements;

“legal person” includes legal arrangements;

“UNSC” means the United Nations Security Council;

“UNSCR” means the United Nations Security Council Resolution

3. **Attorney General as Competent Authority.**

“ (1) The Attorney General is hereby established as the Competent Authority with responsibility for designating persons or entities to the United Nations Security Council and its relevant Committees, pursuant to the obligations set out in the following United Nations Security Council Resolutions that impose targeted financial sanctions in respect of the financing of proliferation of weapons of mass destruction:

- (a) UNSCR 1718/2006 and its successor resolutions;
- (b) UNSCR 1737 (2006) and its successor resolutions;
- (c) UNSCR 1874 (2009) and its successor resolutions;
- (d) UNSCR 2087 (2013) and its successor resolutions;
- (e) UNSCR 2094 (2013) and its successor resolutions;
- (f) UNSCR 2231 (2015) and its successor resolutions;
- (g) UNSCR 2270 (2016) and its successor resolutions;
- (h) UNSCR 2321 (2016) and its successor resolutions;
- (i) UNSCR 2356 (2017) and its successor resolutions.

(2) In making the decision in subsection (1), the Attorney General shall have regard to the specific designation criteria as set forth in the relevant Security Council Resolution.

(3) Where the Attorney General designates a natural person or entity to the UNSC in accordance with section 3 (1), notification of that designation shall be communicated to financial institutions and DNFBPs within twenty four hours of that designation on such terms as may be prescribed by the Minister in Regulations.

4. Freezing Without Delay

(1) Where the UNSC designates persons or entities pursuant to the UNSCRs set out in subsection (1) or any other UNSC resolutions that relate to the prevention or disruption of the financing of the proliferation of weapons of mass destruction, all natural and legal persons within Saint Christopher and Nevis shall freeze without delay or prior notice,

- (a) the funds or other assets that are owned or controlled by those designated persons or entities notwithstanding that those funds or assets may not be linked to a particular act, plot or threat of proliferation;
- (b) those funds or other assets that are wholly or jointly owned or controlled, directly or indirectly, by designated persons or entities; and
- (c) the funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly, by designated persons or entities, as well as
- (d) funds or other assets of persons and entities acting on behalf of, or at the direction of designated persons or entities
- (e) ensure that no funds or other assets are made available in Saint Christopher and Nevis to and for the benefit of any designated person or entity without the prior authorisation of the UNSC.

(2) Pursuant to the provisions of subsection (1), the expression, “without delay”, means taking action within twenty four hours.

(3) Where a natural or legal person takes freezing action or any other relevant action in response to the designation of a natural person or entity, the natural or legal person shall promptly notify the Attorney General, the FSRC and the FIU of that action and shall comply with the guidelines prescribed in respect of freezing and unfreezing mechanisms as well as any prescribed regulations in respect of listing or delisting of natural persons and entities .

(4) Where pursuant to subsection (3), freezing action is

taken, then the natural person or legal person undertaking the freeze shall maintain that action for a period not exceeding seven days.

(5) Where property is frozen pursuant to the provisions of this section, then before the expiry of the seven day period, the Attorney General or the FIU may, apply to the Court ex parte for a freezing order in respect of the property in question.

(6) If an ex parte order is not obtained in respect of the property in question then at the end of the seven day period, the property shall be released from the effects of the freeze.

(7) In seeking an ex parte order pursuant to this Act, the Attorney General or the FIU shall make any relevant undertaking in relation to damages.

(8) The FSRC shall have responsibility for monitoring and ensuring compliance by financial institutions and DNFBPs with the provisions of this legislation and in that regard, the Financial Services Regulatory Commission Act, the FSR and all relevant anti-money laundering, counter-terrorist financing legislation shall be applicable.

(9) Where the rights or interests of a bona fide third party in good faith are adversely impacted by actions taken pursuant to this Act, he or she shall notify Attorney General and the Court of his or her rights and shall provide evidence regarding same.

(10) Where the Court makes an order freezing funds pursuant to this Act, the rights and interests of a bona fide third party shall be taken into account.

5. **Offences.**

(1) Where a natural person acts in contravention of subsection (1), he or she commits an offence and shall be liable on summary conviction to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding two years.

(2) Where a legal person acts in contravention of section 4(1), the Directors of that company commit an offence shall be liable on summary conviction to a fine not exceeding three hundred and fifty thousand dollars or to imprisonment for a term not exceeding five years.

(3) Where a natural legal person acts in contravention of section 4 (3), he or she commits an offence and shall be liable on summary conviction to a fine not exceeding fifty thousand dollars.

(4) Where a legal person acts in contravention of section 4(3), the Directors of that legal person shall be liable on summary conviction to a fine not exceeding one hundred and fifty thousand dollars.

(5) The sanctions referred to in subsections (3) and (4), shall be without prejudice to the exercise of the powers of the FSRC to monitor, regulate and impose administrative sanctions in keeping with the provisions of the FSRC Act and any regulations made pursuant to that Act.

6. Identification of Targets for Designation.

(1) The Financial Services Regulatory Commission, the Financial Intelligence Unit, the Customs and Excise Department, the Inland Revenue Department, the Ministry of Finance, the White Collar Crime Unit, the Immigration Department as well as all regulated entities shall be responsible for scrutinising the UN Sanctions Lists, and any other relevant sanctions lists where individuals, groups, undertakings and entities may be identified as targets for designation.

(2) Where pursuant to subsection (1), a natural person, group, undertaking or entity is identified on any of the relevant lists, then

- (a) the relevant authority shall notify the Attorney General's Chambers without delay and in any case within twenty four hours of the identification; or
- (b) a regulated entity shall file a suspicious transaction report with the Financial Intelligence Unit without delay and in any case within twenty four hours of the identification.

(3) Where the Attorney General receives notification of an identification pursuant to subsection (2), he or she shall make a determination, on a reasonable basis on the sufficiency of the evidence, as to whether the natural person, group, undertaking or entity

- (a) should be proposed to the 1718 Sanctions Committee, for designation as appropriate, based on the specific criteria for designation, as set forth in Security Council resolution 1718 (2006) and its successor resolutions; or

- (b) should be proposed to the Security Council, for designation as appropriate, persons or entities as set forth in Security Council Resolution 2231 (2015) and any future successor resolutions if that authority decides to do so and believes that it has sufficient evidence to support the designation criteria;

(4) The Attorney General shall ensure that when receiving a request that prompt determination is made on reasonable grounds as to whether the proposed designee meets the requisite criteria for designation.

(5) The Attorney General shall employ such procedures or mechanisms to collect or solicit as much information as possible to identify persons and entities that would meet the relevant criteria for designation pursuant to the relevant Security Council resolutions.

6. Regulations.

(1) Subject to section 3, the Minister may prescribe in Regulations

- (a) the criteria for designation pursuant to the relevant Security Council Resolutions;
- (b) the procedures and standard forms for listing, providing for statements of case on the basis for listing;
- (c) procedures for particulars and sufficiency of identifying information; and
- (d) any other relevant information that may be pertinent to a case for identification or proposal to the particular Sanctions Committee.

(2) The Minister shall prescribe in Regulations for the procedural requirements of freezing, unfreezing, listing and delisting and prohibiting of dealing without delay in funds or other assets of designated persons and entities.”.

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A. MICHAEL PERKINS
Speaker

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SONIA BODDIE-THOMPSON
Clerk of the National Assembly