



ANALYSIS

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2003, No. 6

An Act to amend the Crimes Act 1969

(7 May 2003)

BE IT ENACTED by the Parliament of the Cook Islands in Session assembled, and by the authority of the same, as follows:

1. Short Title - This Act may be cited as the Crimes Amendment Act 2003 and shall be read together with and deemed part of the Crimes Act 1969 ("the principal Act").

2. Interpretation - (1) Section 2(1) of the principal Act is amended by inserting immediately after the definition of "Offence", the following new definition -

““obtain a material benefit”, in relation to doing a thing, means obtain, directly or indirectly, any goods, money, pecuniary advantage, privilege, property, or other valuable consideration of any kind for doing the thing (or taking an action that forms part of doing the thing);”.

3. Extraterritorial jurisdiction – The principal Act is amended by inserting, after section 7, the following new sections -

“7A. Extraterritorial jurisdiction in respect of certain offences with transnational aspects – (1) Even if the acts or omissions alleged to constitute the offence occurred wholly outside the Cook Islands proceedings may be brought for an offence against section 109A, section 109C, section 109D, any of sections 111 to 116, section 127, section 128, or section 280A -

- (a) if the person to be charged -
 - (i) is ordinarily resident in the Cook Islands; or
 - (ii) has been found in the Cook Islands and has not been extradited; or
 - (iii) is a body corporate, or a corporation sole, incorporated under the law of the Cook Islands;
 - (b) if any of the acts or omissions is alleged to have occurred -
 - (i) on board a ship registered or required to be registered under the Shipping Act 1998; or
 - (ii) on board a Cook Islands aircraft; or
 - (iii) on board an aircraft that is leased to a lessee whose principal place of business is in the Cook Islands, or who is a person ordinarily resident in the Cook Islands;
 - (c) if a person in respect of whom the offence is alleged to have been committed is ordinarily resident in the Cook Islands;
 - (d) in the case of an offence against section 109A, if the group of people in which the person to be charged is alleged to have participated are alleged to have as their objective or one of their objectives the obtaining of material benefits by the commission in the Cook Islands of offences or conduct referred to in paragraph (a) or paragraph (b) of section 109A(2).
- (2) Even if the acts or omissions alleged to constitute the offence occurred wholly outside the Cook Islands, proceedings may be brought for an offence against section 109C or section 109D -
- (a) in the case of an offence against section 109C(1) or section 109D, if the act or omission is alleged to relate to the entry of a person into the Cook Islands; or
 - (b) in the case of an offence against section 109C(2), if the act or omission is alleged to relate to arranging the bringing of a person to the Cook Islands.
- (3) Section 8 shall not apply to an offence referred to in subsection (1).
- (4) Nothing in subsections (1) to (3) limits or affects -
- (a) the application of section 7 to the occurrence in the Cook Islands of -
 - (i) an act or omission forming part of an offence; or
 - (ii) an event necessary to the completion of an offence.

7B. Attorney-General's consent required where jurisdiction claimed under section 7A – (1) Proceedings for an offence against section 109A, section 127, section 128, or section 280A cannot be brought in the High Court against a person without the Attorney-General's consent, if jurisdiction over the person is claimed by virtue of section 7A.

(2) A person over whom jurisdiction is claimed by virtue of section 7A may be arrested for an offence against section 109A, section 127, section 128, or section 280A or a warrant for the person's arrest for the offence may be issued and executed, and the person may be remanded in custody or on bail, even though the Attorney-General's consent to the bringing of proceedings against the person has not been obtained."

4. Organised crime – The principal Act is amended by inserting after section 109, the following new sections -

"109A. Participating in organised criminal group – (1) Every one is liable to imprisonment for a term not exceeding 5 years who participates (whether as a member or an associate member or prospective member) in an organised criminal group, knowing that it is an organised criminal group; and

- (a) knowing that his or her participation contributes to the occurrence of criminal activity; or
- (b) reckless as to whether his or her participation may contribute to the occurrence of criminal activity.

(2) For the purposes of this Act, a group is an organised criminal group if it is a group of 3 or more people who have as their objective or one of their objectives -

- (a) obtaining material benefits from the commission of offences that are punishable by imprisonment for a term of 4 years or more; or
- (b) obtaining material benefits from conduct outside the Cook Islands that, if it occurred in the Cook Islands, would constitute the commission of offences that are punishable by imprisonment for a term of 4 years or more; or
- (c) the commission in the Cook Islands of offences that are punishable by imprisonment for 10 years or more; or
- (d) conduct outside the Cook Islands that, if it occurred in the Cook Islands would constitute the commission of an offence punishable by imprisonment for a term of 10 years or more.

(3) A group of people is capable of being an organised criminal group for the purposes of this Act whether or not –

- (a) some of them are subordinates or employees of others; or
- (b) only some of the planning, arrangement, or execution at that time of any particular action, activity, or transaction; or
- (c) its membership changes from time to time."

109B. Terms used in sections 109C to 109F – In sections 109C to 109F, unless the context otherwise requires –

“act or coercion against the person” includes –

- (a) abducting the person;
- (b) using force in respect of the person;
- (c) harming the person;
- (d) threatening the person (expressly or by implication) with the use of force in respect of, or the harming of, the person or some other person;

“act of deception” includes fraudulent action;

“arranges for an unauthorised migrant to be brought to a state” includes –

- (a) organises or procures the bringing to a state;
- (b) recruits for bringing to a state;
- (c) carries to a state;

“document” includes a thing that is or is intended to be –

- (a) attached to a document; or
- (b) stamped or otherwise signified on a document;

“for a material benefit”, in relation to doing a thing, means –

- (a) after having obtained a material benefit for doing the thing; or
- (b) intending to obtain a material benefit for doing the thing;

“harming of a person”, means causing harm of any kind to the person, and (in particular) includes –

- (a) causing physical, psychological, or financial harm to the person;
- (b) sexually mistreating the person;
- (c) causing harm to the person’s reputation, status, or prospects;

“unauthorised migrant”, in relation to a state, means a person who is neither a citizen of the state nor in possession of all the documents required by or under the law of the state for the person’s lawful entry into the state.

109C. Smuggling migrants – (1) Every one is liable to the penalty stated in subsection (3) who arranges for an unauthorised migrant to enter the Cook Islands or any other state, if he or she –

- (a) does so for a material benefit; and
- (b) either knows that the person is, or is reckless as to whether the person is, an unauthorised migrant.

(2) Every one is liable to the penalty stated in subsection (3) who arranges for an unauthorised migrant to be brought to the Cook Islands or any other state, if he or she -

- (a) does so for a material benefit; and

- (b) either knows that the person is, or is reckless as to whether the person is, an unauthorised migrant; and
 - (c) either –
 - (i) knows that the person intends to try to enter the state; or
 - (ii) is reckless as to whether the person intends to try to enter the state.
- (3) The penalty is imprisonment for a term not exceeding 14 years, a fine not exceeding \$300,000, or both.
- (4) Proceedings may be brought under subsection (1) even if the unauthorised migrant did not in fact enter the state concerned.
- (5) Proceedings may be brought under subsection (2) even if the unauthorised migrant was not in fact brought to the state concerned.

109D. Trafficking in people by means of coercion or deception – (1) Every one is liable to the penalty stated in subsection (2) who -

- (a) arranges the entry of a person into the Cook Islands or any other state by one or more acts of coercion against the person, one or more acts of deception of the person, or both; or
 - (b) arranges, organises, or procures the reception, concealment, or harbouring in the Cook Islands or any other state of a person, knowing that the person's entry into the Cook Islands or that state was arranged by one or more acts of coercion against the person, one or more acts of deception of the person, or both.
- (2) The penalty is imprisonment for a term not exceeding 20 years, a fine not exceeding \$500,000, or both.
- (3) Proceedings may be brought under this section even if the person coerced or deceived -
- (a) did not in fact enter the state concerned; or (as the case may be)
 - (b) was not in fact received, concealed, or harboured in the state concerned.
- (4) Proceedings may be brought under this section even if parts of the process by which the person coerced or deceived was brought or came to or towards the state concerned were accomplished without an act of coercion or deception.

109E. Aggravating factors – (1) When determining the sentence to be imposed on, or other way of dealing with, a person convicted of an offence against section 109C or section 109D, a court must take into account –

- (a) whether bodily harm or death (whether to or of a person in respect of whom the offence was committed or some other person) occurred during the commission of the offence;
- (b) whether the offence was committed for the benefit of, at the direction of, or in association with, an organised criminal group (within the meaning of section 109A(2));

- (c) whether a person in respect of whom the offence was committed was subjected to inhuman or degrading treatment as a result of the commission of the offence;
 - (d) if during the proceedings concerned the person was convicted of the same offence in respect of 2 or more people, the number of people in respect of whom the offence was committed.
- (2) When determining the sentence to be imposed on, or other way of dealing with, a person convicted of an offence against section 109D, a court must also take into account -
- (a) whether a person in respect of whom the offence was committed was subjected to physical abuse (for example, rape or assault) as a result of the commission of the offence;
 - (b) the age of the person in respect to whom the offence was committed and, in particular, whether the person was under the age of 16 years;
 - (c) whether the person convicted committed the offence, or took actions that were part of it, for a material benefit.
- (3) The examples in paragraph (a) of subsection (2) do not limit the generality of that paragraph.
- (4) This section does not limited the matters that a court may take into account when determining the sentence to be imposed on, or other way of dealing with, a person convicted of an offence against section 109C or section 109D.

109F. Attorney-General's consent to prosecutions required – (1) Proceedings for an offence against section 109C or section 109D cannot be brought in a Cook Islands court without the Attorney-General's consent.

(2) A person alleged to have committed an offence against section 109C or section 109D may be arrested, or a warrant for the person's arrest may be issued and executed, and the person be remanded in custody or in bail, even though the Attorney-General's consent to the bringing of proceedings against the person has not been obtained."

5. Corrupt use of official information – The principal Act is amended by inserting after section 116, the following new sections -

"116A. Corrupt use of official information – Every official is liable to imprisonment for a term not exceeding 7 years who, whether within the Cook Islands or elsewhere, corruptly uses or discloses any information, acquired by him in his official capacity, to obtain, directly or indirectly, an advantage or a pecuniary gain for himself or any other person.

116B. Use or disclosure of personal information disclosed in breach of section 116A – (1) Every person is liable to imprisonment for a term not exceeding 7 years who –

- (a) having received personal information (being information that comes into that person's possession as a result of the commission of an offence against section 116A of this Act); and
- (b) knowing that the information has been disclosed in contravention of that section, -

uses or discloses that information to obtain, directly or indirectly, an advantage or pecuniary gain for that person or any other person.

(2) It is a defence to a charge under this section if the person charged proves that the person was legally authorised to use or disclose the information.

(3) In this section, the term "personal information" means any information about an identifiable natural person, including a deceased natural person."

6. Conspiring to defeat justice – (1) Section 127 of the Principal Act is amended by adding after the word "justice" the words "in the Cook Islands or the course of justice in an overseas jurisdiction."

7. Corrupting juries and witnesses – (1) The Principal Act is amended by repealing section 128, and substituting the following section -

"128. Corrupting juries and witnesses – Every one is liable to imprisonment for a term not exceeding 7 years who –

- (a) dissuades or attempts to dissuade a person, by threats, bribes, or other corrupt means from giving evidence in any cause or matter (whether civil or criminal, and whether tried or to be tried in the Cook Islands or in an overseas jurisdiction); or
- (b) influences or attempts to influence, by threats or bribes or other corrupt means, a member of a jury in his or her conduct as such (whether in a cause or matter tried or to be tried in the Cook Islands in an overseas jurisdiction, and whether the member has been sworn as a member of a particular jury or not); or
- (c) accepts any bribe or other corrupt consideration to abstain from giving evidence (whether in a cause or matter tried or to be tried in the Cook Islands or in an overseas jurisdiction); or
- (d) accepts any bribe or other corrupt consideration on account of his or her conduct as a member of a jury (whether in a cause or matter tried or to be tried in the Cook Islands in an overseas jurisdiction, and whether the member has been sworn as a member of a particular jury or not); or
- (e) wilfully attempts in any other way to obstruct, prevent, pervert, or defeat the course of justice in the Cook Islands or the course of justice in an overseas jurisdiction."

8. Sexual conduct with children outside the Cook Islands – The principal Act is amended by inserting after section 157 the following sections –

“157A. Sexual conduct with children outside the Cook Islands – (1) Every one commits an offence who, being a person ordinarily resident in the Cook Islands, does outside the Cook Islands, any act to or in relation to any child under the age of 16 years if that act would, if done in the Cook Islands, constitute an offence against any of the following provisions of this Act -

- (a) Section 145(1) (sexual intercourse with girl under 12);
- (b) Section 145(2) (attempted sexual intercourse with girl under 12);
- (c) Section 146 (indecent with girl under 12);
- (d) Section 147(1) (sexual intercourse with girl between 12 and 16);
- (e) Section 147(2) (indecent with girl between 12 and 16);
- (f) Section 152 (indecent act between girl and woman);
- (g) Section 153 (indecent between man and boy);
- (h) Section 155 (sodomy).

(2) Every one who commits an offence against this section in respect of any provision specified in subsection (1) of this section is liable to the same penalty to which he or she would have been liable had he or she been convicted of an offence against that provision.

(3) Where, in respect of any provision specified in subsection (1) of this section (in this subsection referred to as the specified provision), any provision of this Act specifies -

- (a) circumstances that constitute a defence to a charge under the specified provision; or
- (b) circumstances that do not constitute a defence to a charge under the specified provision; or
- (c) circumstances in which the person upon or with whom an offence against the specified provision is committed may not be charged with an offence against the specified provision; or
- (d) any time limit on the commencement of proceedings for an offence against the specified provision,

that provision shall apply in respect of the commencement of proceedings for an offence against this section in respect of the specified provision and in respect of any charge under this section in respect of the specified provision.

157B. Consent of Attorney-General required – (1) No information shall be laid for an offence against section 157A of this Act except with the consent of the Attorney-General.

- (2) A person who is alleged to have committed an offence against this section may be arrested, or a warrant for the arrest of the person may be issued and executed, and any such person may be remanded in custody or on bail, notwithstanding that the consent of the Attorney-General to the laying of an information for the offence has not been obtained, but no further or other proceedings shall be taken until that consent has been obtained.
- (3) The Attorney-General may, before deciding whether or not to give consent under subsection (1), make such inquiries as he or she thinks fit."

9. Standard of care required of persons under legal duties – The principal Act is amended by inserting after section 170, the following new section -

- "170A. Standard of care required of persons under legal duties – (1) This section applies in respect of the legal duties specified in any of sections 171, 172, 173, 175, 176 and 177.
- (2) For the purposes of this Part, a person is criminally responsible for –
- (a) omitting to discharge or perform a legal duty to which this section applies; or
- (b) neglecting a legal duty to which this section applies,
- only if in the circumstances of the particular case, the omission or neglect is a major departure from the standard of care expected of a reasonable person to whom that legal duty applies in those circumstances."

10. Possession of offensive weapons or disabling substances – The principal Act is amended by inserting after section 224, the following new section -

- "224A. Possession of offensive weapons or disabling substances – (1) In subsection (4)(a) of this section "offensive weapon" means any article made or altered for use for causing bodily injury, or intended by the person having it with him for such use.
- (2) In subsection (4)(b) of this section "offensive weapon" means any article capable of being used for causing bodily injury.
- (3) In this section "disabling substance" means any anaesthetising or other substance produced for use for disabling persons, or intended by any person having it with him for such use.
- (4) Every one is liable to imprisonment for a term not exceeding 2 years –
- (a) who, without lawful authority or reasonable excuse, has with him in any public place any knife or offensive weapon or disabling substance; or
- (b) who has in his possession in any place any offensive weapon or disabling substance in circumstances that prima facie show an intention to use it to commit an offence involving bodily injury or the threat or fear of violence.

(5) It is a defence to a charge under subsection (4) (b) of this section if the person charged proves that he did not intend to use the offensive weapon or disabling substance to commit an offence involving bodily injury or the threat or fear of violence.”

11. Money laundering – The principal Act is amended by inserting after section 280, the following new sections -

“280A. Money laundering – (1) For the purposes of this section, “serious offence” means -

- (a) an act or omission that constitutes an offence against the law of the Cook Islands punishable by imprisonment for not less than 12 months or the imposition of a fine of more than \$5,000; or
 - (b) an act or omission that constitutes an offence against the law of another country that, had that act or omission occurred in the Cook Islands, it would have constituted an offence against the law of the Cook Islands punishable by imprisonment for not less than 12 months or the imposition of a fine of more than \$5,000.
- (2) A person commits the offence of money-laundering if the person -
- (a) acquires, possesses or uses property, or engages in a transaction that involves property, knowing or having reason to believe that it is derived directly or indirectly from a serious offence;
 - (b) converts or transfers property derived directly or indirectly from those acts or omissions with the aim of –
 - (i) concealing or disguising the illicit origin of that property; or
 - (ii) aiding any person involved in the commission of the offence, to evade the legal consequences thereof;
 - (c) conceals or disguises the true nature, origin, location, disposition, movement or ownership of the property derived directly or indirectly from those acts or omissions;
 - (d) renders assistance to another person for any of the above.
- (3) Knowledge, intent or purpose required as an element of the above-mentioned activities may be inferred from objective factual circumstances.
- (4) Any person may be convicted of a money laundering offence under this section notwithstanding the absence of a conviction in respect of a crime which generated the proceeds alleged to have been laundered.
- (5) A person guilty of an offence under the provisions of this section is liable on conviction, in the case of a person, to a term of imprisonment of up to 5 years or a fine of up to \$50,000 and in the case of a person which is a body corporate, five times such fine.

280B. Prejudicing investigation by disclosing information – (1) A person who discloses to another person information or other matter likely to prejudice any investigation of an offence or possible offence of money-laundering, is guilty of an offence by a fine of up to \$50,000, or a term of imprisonment of up to 5 years, or both.

(2) In proceedings for an offence against subsection (1), it is a defence to prove that the accused did not know, and had no reasonable grounds for suspecting, that the disclosure was likely to prejudice any investigation of an offence or possible offence of money-laundering where disclosure does not fall within the scope of that person's duties.

280C. Immunity from liability for disclosure of information – Where –

- (a) any person discloses, to any member of the Police, any information relating to money laundering; and
- (b) that information is so disclosed in good faith for the purpose of or in connection with the enforcement or intended enforcement of –
 - (i) this Act; or
 - (ii) the Proceeds of Crime Act 2003; or
 - (iii) the Mutual Assistance in Criminal Matters Act 2003; or
 - (iv) the Financial Transactions Reporting Act 2003; and
- (c) that person is otherwise under any obligation (whether arising by virtue of any enactment or any rule of law or otherwise howsoever) to maintain secrecy in relation to, or not to disclose, that information, -

then, notwithstanding that the disclosure would otherwise constitute a breach of that obligation of secrecy or non-disclosure, the disclosure by that person, to that member of the Police, of that information is not a breach of that obligation of secrecy or non-disclosure or (whether applicable) of any enactment by which that obligation is imposed.”

12. Altering or reproducing document with the intent to defraud – The principal Act is amended by inserting after section 289, the following new sections –

“289A. Altering or reproducing document with intent to defraud - (1) Every one is liable to imprisonment for a term not exceeding 10 years who, with intent to defraud, -

- (a) makes any alteration in any document, whether by addition, insertion, deletion, obliteration, erasure, removal, or otherwise; or
- (b) by any means, makes a document that is a reproduction of the whole or any part or parts of another document, or of the whole or any parts of 2 or more documents, or of any combination of any of those things.

(2) An offence against subsection (1) is complete as soon as the alteration or document is made with such intent as aforesaid, although the offender may not have intended that any particular person should use or act upon the document so altered or made, or should be induced by it to do or refrain from doing anything.

289B. Using altered or reproduced document with intend to defraud – (1) Every one is liable to imprisonment for a term not exceeding 10 years who with intent to defraud, knowing a document to have been altered or made in a manner and with the intent referred to in subsection (1) of section 289A of this Act, -

- (a) uses, deals with, or acts upon it; or
 - (b) causes any person to use, deal with, or act upon it.
- (2) For the purposes of this section, it is immaterial that the document was altered or made outside the Cook Islands.”

13. Market Trading Offences – The Principal Act is amended by inserting, after Part XI, the following new Part XII -

“PART XII
MARKET TRADING OFFENCES

336. Interpretation of Part XII - (1) In this Part, unless the context otherwise requires -

“disseminate” includes make available, publish, and circulate; and also includes disseminate by letter, newspaper, broadcasting, television, cinematograph film, or any other means whatsoever;

“financial market” is an exchange, market, or other facility whether within or beyond the Cook Islands, through which offers to acquire or dispose of, or trade securities are regularly made or accepted;

“information” includes:

- (a) matters of supposition and other matters that are insufficiently definite to warrant being made known to the public; and
- (b) matters relating to the intentions, or likely intentions, of a person;

“inside information” means information in relation to particular securities which -

- (a) is not generally available; and
- (b) if the information were generally available, a reasonable person would expect it to have a material effect on the price or value of such securities;

“insider” means a person who has inside information;

“person” includes a corporation sole, a company or other body corporate (whether incorporated in the Cook Islands or elsewhere), an unincorporated body of persons, a public body, and a Government department;

“security” means any class of interest or right to participate in any capital, assets, earnings, royalties, or other property of any person which is traded on a financial market, and includes any interest in or right to be paid money that is, or is to be, deposited with, lent to, or otherwise owing by, any person (whether or not the interest or right is secured by a charge over any property); and “securities” shall have a corresponding meaning.

- (2) For the purposes of this Part, information is generally available if -
- (a) it consists of readily observable matter; or
 - (b) both of the following subparagraphs apply:
 - (i) it has been made known in a manner that would, or would be likely to, bring it to the attention of persons who commonly invest in securities of a kind whose price might be affected by the information; and
 - (ii) since it was made known, a reasonable period for it to be disseminated among such persons has elapsed; or
 - (c) it consists of deductions, conclusions or inferences made or drawn from either or both of the following:
 - (i) information referred to in paragraph (a);
 - (ii) information made known as mentioned in subparagraph (b)(i).
- (3) For the purposes of this Part, a reasonable person would be taken to expect information to have a material effect on the price or value of particular securities if (and only if) the information would, or would be likely to, influence persons who commonly acquire such securities in deciding whether or not to acquire or dispose of the first-mentioned securities.

337. Prohibited conduct by person in possession of inside information - (1) If an insider knows, or ought reasonably to know, that the matters specified in paragraphs (a) and (b) of the definition of inside information in section 336 are satisfied in relation to the information, the insider must not (whether as principal or agent) -

- (a) apply for, acquire, or dispose of, such securities, or enter into an agreement to apply for, acquire, or dispose of, such securities; or
- (b) procure another person to apply for, acquire, or dispose of, relevant securities, or enter into an agreement to apply for, acquire, or dispose of, such securities.

(2) If an insider knows, or ought reasonably to know, that the matters specified in paragraphs (a) and (b) of the definition of inside information in section 336 are satisfied in relation to the information, the insider must not, directly or indirectly, communicate the information, or cause the information to be communicated, to another person if the insider knows, or ought reasonably to know, that the other person would or would be likely to -

- (a) apply for, acquire, or dispose of, such securities, or enter into an agreement to apply for, acquire, or dispose of, such securities; or
- (b) procure another person to apply for, acquire, or dispose of, such securities, or enter into an agreement to apply for, acquire, or dispose of, such securities.

338. Exceptions to section 337 - (1) No action shall be brought against an insider under section 337 of this Act if -

- (a) the securities are disposed of, or acquired, in that person's own name or in the name, or on behalf, of that person's spouse or child; and
- (b) in disposing of or acquiring the securities that person complies with a procedure approved by the relevant supervisory authority for ensuring that no insider uses that information in disposing of or acquiring securities for personal gain.

(2) No action shall be brought against an insider under section 337 of this Act in respect of the acquisition of securities which results from a take-over offer made by the insider in accordance with applicable companies legislation.

339. Market manipulation - A person must not take part in, or carry out (whether directly or indirectly) one or more transactions that have or are likely to have the effect of -

- (a) creating an artificial price for trading in securities; or
- (b) maintaining at a level that is artificial (whether or not it was previously artificial) a price for trading in securities.

340. False trading and market rigging - (1) A person must not do, or omit to do, an act if that act or omission has or is likely to have the effect of creating, or causing the creation of, a false or misleading appearance -

- (a) of active trading in securities; or
- (b) with respect to the market for, or the price for trading in, securities.

(2) A person must not enter into, or engage in, a fictitious or artificial transaction or device if that transaction or device results in -

- (a) the price for trading in securities being maintained, inflated or depressed; or
- (b) fluctuations in the price for trading in securities.

(3) For the purposes of subsection (1), but without limiting that subsection, a person is taken to have created a false or misleading appearance of active trading in particular securities if the person enters into, or carries out, either directly or indirectly, any transaction of acquisition or disposal of any of those securities that does not involve any change in the beneficial ownership of the securities.

(4) For the purposes of subsection (3), an acquisition or disposal of securities does not involve a change in the beneficial ownership if -

- (a) a person who had an interest in the securities before the acquisition or disposal; or
- (b) an associate of such a person;

has an interest in the securities after the acquisition or disposal.

341. False or misleading statements - (1) A person must not make a statement, or disseminate information, if -

- (a) the statement or information is false in a material particular or is materially misleading; and
- (b) the statement or information is likely:
 - (i) to induce persons to apply for securities; or
 - (ii) to induce persons to dispose of or acquire securities; or
 - (iii) to have the effect of increasing, reducing, maintaining or stabilising the price for trading in securities; and
- (c) when the person makes the statement, or disseminates the information:
 - (i) the person does not care whether the statement or information is true or false; or
 - (ii) the person knows, or ought reasonably to have known, that the statement or information is false in a material particular or is materially misleading.

342. Offences - Any person who fails to comply with any of the requirements of this Part is guilty of an offence punishable on conviction -

- (a) if an individual by a fine not exceeding \$50,000 or imprisonment for a term not exceeding 2 years or both;
- (b) if a body corporate to a fine not exceeding \$250,000."

14. Repeal - The Offshore Industry (Criminal Provisions) Act 1995-96 is repealed.

This Act is administered by the Ministry of Police