

No. 2] *Criminal Code (Amendment) Act* [2010.

Short title

1. This Act may be cited as the Criminal Code (Amendment) Act 2010.

Interpretation

2. In this Act, "principal Act" means the Criminal Code, Cap. 3.01.

Insertion of section 80A

3. The principal Act is amended by inserting immediately after section 80 the following section 80A:

"Participation in an organized criminal group

80A. (1) A person shall not -

- (a) agree with one or more other persons to commit a serious crime for a purpose relating directly or indirectly to obtaining a financial or other material benefit;
- (b) with knowledge of either the aim and general criminal activity of an organized criminal group or its intention to commit crimes, take an active part in -
 - (i) criminal activities of the organized criminal group;
 - (ii) other activities of the organized criminal group in the knowledge that his or her participation will contribute to the achievement of a criminal aim;
- (c) organize, direct, aid, abet, facilitate or counsel the commission of a serious crime involving an organized criminal group.

(2) A person who contravenes subsection (1) commits an offence and is liable to a fine not exceeding one hundred thousand dollars or to a term of imprisonment not exceeding five years or both.

(3) For the purposes of this section, "serious crime" means conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty."

Insertion of section 115A

4. The principal Act is amended by inserting immediately after section 115 the following section 115A:

*"Hostage-taking***Hostage-taking**

115A. — (1) A person who -

- (a) seizes or detains; and
- (b) threatens to kill, or to injure, or to continue to detain, another person;

in order to compel a third person to do, or to abstain from doing, any act as an express or implied condition for the release of the person referred to in paragraph (b) commits the offence of hostage-taking.

(2) A person who —

- (a) attempts to commit;
- (b) aids or abets the commission of;

hostage-taking commits an offence.

(3) A person convicted of hostage-taking under subsection (1) or (2) is liable on conviction on indictment to life imprisonment.

(4) In this section, "third person" means any State, an International Intergovernmental Organization, or any person or group of persons."

Insertion of section 115B

5. The principal Act is amended by inserting immediately after section 115A the following new section 115B -

"Migrant smuggling

115B. (1) A person shall not intentionally and in order to obtain, directly or indirectly, a financial or other material benefit—

- (a) smuggle a migrant;
- (b) when committed for the purpose of enabling the smuggling of migrants -
 - (i) produce a fraudulent travel or identity document;
 - (ii) procure, provide or possess such a document;

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- (c) enable a person who is not a national or a permanent resident to remain in Saint Lucia without complying with the necessary requirements for legally remaining in Saint Lucia by the means mentioned in paragraph (b) or any other illegal means.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction on indictment to imprisonment for 10 years.

(3) A person who -

- (a) participates as an accomplice in an offence;
- (b) organizes or directs other persons to commit an offence;

commits an offence under this section and is liable on conviction on indictment to imprisonment for 5 years.

(4) The following are aggravating circumstances to the offences created under this section -

- (a) that the circumstances endanger, or are likely to endanger, the lives or safety of the migrants concerned; or
- (b) that the circumstances entail inhuman or degrading treatment, including exploitation of such migrants.

(5) In this section -

“smuggling of migrants” means the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into Saint Lucia of which the person is not a national or a permanent resident;

“illegal entry” means crossing borders without complying with the necessary requirements for legal entry into Saint Lucia;

“fraudulent travel or identity document” means any travel or identity document -

- (a) that has been falsely made or altered in some material way by anyone other than a person or agency lawfully authorized to make or issue the travel or identity document on behalf of Saint Lucia;

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- (b) that has been improperly issued or obtained through misrepresentation, corruption or duress or in any other unlawful manner; or
- (c) that is being used by a person other than the rightful holder.”

Passed in the House of Assembly this 8th day of December, 2009.

ROSEMARIE HUSBANDS-MATHURIN,
Speaker of the House.

Passed in the Senate this 15th day of December, 2009.

GAIL V. PHILIP,
President of the Senate.