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Fifth Session Eleventh Parliament Republic of
Trinidad and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 1 of 2020

[L.S.]

AN ACT to amend the Administration of Justice
(Indictable Proceedings) Act, 2011 (Act No. 20 of
2011)

[Assented to 8th January, 2020]

ENACTED by the Parliament of Trinidad and Tobago as Enactment
follows:

1. This Act may be cited as the Administration of Short title
Justice (Indictable Proceedings) (Amendment) Act,
2020.

Interpretation
Act No. 20 of 2011

2. In this Act, “the Act” means the Administration of Justice (Indictable Proceedings) Act, 2011.

Section 3 amended

3. Section 3(1) of the Act is amended—

(a) in the definition of “arrest warrant”, by inserting after the words “or 8”, the words “or any other written law”;

(b) in the definition of “documentary exhibit”, by inserting after the word “printout”, the words “, digital file in any format contained in any device”;

(c) by inserting after the definition of “Master”, the following definition:

“ “Minister” means the Minister with responsibility for the criminal justice system;”;

(d) in the definition of “search warrant”—

(i) by inserting after the words “a warrant”, the words “for the conduct of a search”; and

(ii) by inserting after the words “section 5(1)”, the words “or any other written law”; and

(e) in the definition of “summons”, by deleting the words “section 6(a)” and substituting the words “section 6”.

Section 4 amended

4. Section 4(1) of the Act is amended by inserting after the words “subsection (2)”, the words “and section 6(3)(d)”.

Section 5 amended

5. Section 5 of the Act is amended—

(a) in subsection (1)—

(i) by deleting the word “ship” in both places where it occurs and

substituting in each place the word
“aircraft”;

(ii) by inserting after the word
“constable”, the words “or any
person accompanying him”;

(b) by inserting after subsection (1), the
following subsections:

“ (1A) A search warrant issued
under subsection (1) may authorise
the search of—

(a) one or more sets of
premises specified in the
warrant; or

(b) any premises occupied or
controlled by a person
specified in the warrant if
the Master is satisfied
that—

(i) because of the
particulars of
the indictable
offence referred
to in subsection
(1), there are
reasonable
grounds for
suspecting that
it is necessary
to search prem-
ises occupied or
controlled by
the person in
question which
are not specified
in the applica-
tion for the

search warrant
in order to find
a n y t h i n g
referred in
paragraphs (a)
to (c) of sub-
section (1);

- (ii) it is not reason-
ably practicable
to specify in
the application
for the search
warrant all the
premises which
the person in
question occupies
or controls and
which might
need to be
searched.

(1B) A search warrant may authorise the search of premises on more than one occasion if the Master is satisfied that it is necessary to authorise multiple searches in order to achieve the purpose for which the search warrant is issued and such search warrant shall be valid for such period as may be specified in the search warrant.

(1C) A Master may also issue a search warrant under sub-section (1A) where—

- (a) it is not practicable to communicate with any person entitled to grant entry to the premises;

- (b) it is practicable to communicate with a person entitled to grant entry to the premises, but it is not practicable to communicate with any person entitled to grant access to the evidence;
- (c) entry to the premises will not be granted unless a warrant is produced; or
- (d) the purpose of a search may be frustrated or seriously prejudiced unless a constable arriving at the premises can secure immediate entry to the premises.

(1D) The power to issue a warrant by this section does not preclude the exercise of such powers under any other written law.”.

(c) by inserting after subsection (2), the following subsection:

“ (2A) Where the occupier of any place which is to be searched is present at the time when a constable seeks to execute a search warrant, the constable shall—

- (a) identify himself to the occupier and, if not in uniform, shall produce to him documentary evidence that he is a constable;

(b) produce the search warrant to the occupier; and

(c) supply the occupier with a copy of the search warrant.”;

(d) by inserting after subsection (6), the following subsections:

“ (6A) Notwithstanding subsection (5), where anything is seized under this section the Commissioner of Police may, instead of causing it to be detained, cause photographs, digital recordings or other images of the thing to be taken in the presence of a Justice of the Peace, a constable and, where practicable, the suspect or his authorised representative.

(6B) Where photographs, digital recordings or other images are taken under subsection (6A)—

(a) the returns set out in Form 2 and Form 3 in Schedule 1 shall be duly completed and the photographs, digital recordings or other images and the returns shall be admissible as sufficient evidence of the thing seized; and

(b) the thing seized may be restored to its owner.”;

and

(e) by repealing subsection (7) and substituting the following subsection:

“ (7) Notwithstanding subsection (5), a Master may, on the application of a prosecutor or the owner of anything seized under this section, order that—

- (a) photographs, digital recordings or other images of the thing seized be taken in the presence of a Justice of the Peace, the owner and, where practicable, the suspect or his authorised representative;
- (b) the returns set out as Form 2 and Form 3 in Schedule 1 be duly completed and filed, together with the photograph, digital recording or other image, in the High Court; and
- (c) the thing seized may be restored to its owner after the photograph, digital recording or other image, and the returns have been filed, and the photograph, digital recording or other image, and the returns, shall be admissible as sufficient evidence of the thing seized.”;

(f) in subsection (9), by inserting after the words “or requires”, the words “the retention of the thing or”.

Section 6 amended

6. Section 6 of the Act is amended—

(a) by repealing subsections (1) and (1A) and substituting the following subsections:

“ (1) Where a complaint in writing is made to a Master that an indictable offence has been committed by an accused, the Master may, if he is satisfied that there are reasonable grounds that an indictable offence has been committed, issue a summons or an arrest warrant to compel the appearance of the accused before him.

(1A) An arrest warrant shall only be issued where the complaint is on oath.

(1B) A complaint shall be in the form set out as Form 4 in Schedule 1.”; and

(b) in subsection (3)(b), by deleting the word “arraignment” and substituting the word “trial”.

Section 7 amended

7. Section 7 of the Act is amended by repealing subsection (8) and substituting the following subsection:

“ (8) The Master, before whom an accused is required to appear in accordance with a summons, may receive proof of the service of the summons, by an affidavit made by the constable who served the summons, but the Master may, if he thinks fit, order that the constable appear before him to prove the service.”.

8. Section 8 of the Act is amended— Section 8 amended

(a) in subsection (7), by deleting the word “arrested” in the second place where it occurs and substituting the word “charged”; and

(b) by inserting after subsection (7), the following subsection:

“ (7A) A charge for an indictable offence shall be in the form set out as Form 4 in Schedule 1.”.

9. Section 8A(7) of the Act is amended— Section 8A amended

(a) by deleting the word “session” occurring in paragraphs (a) and (b);

(b) in paragraph (b), by deleting the words “prosecutor,” and substituting the words “prosecutor.”; and

(c) by deleting the words “and for the purposes of this subsection, “session day” means a day on which the High Court sits or is to sit in accordance with the Supreme Court of Judicature Act.”.

10. Section 10 of the Act is amended— Section 10 amended

(a) in subsection (1)—

(i) by inserting after the words “this Act,”, the words “the Registrar,”;

(ii) in paragraph (a), by deleting the words “pursuant to section 5”;

(iii) in paragraph (c), by deleting the words “pursuant to section 6 or 8, as the case may be”;

(b) in subsection (2)—

(i) by inserting after the word “Where”, the words “the Registrar or”;

- (ii) paragraph (a), by inserting after the words “to the”, the words “Registrar.”;
- (c) in subsections (2A) and (3), by inserting after the word “Where”, the words “the Registrar or”; and
- (d) in subsection (4), by deleting the words “or Magistrate” and substituting the words “, the Registrar or a Magistrate or Magistracy Registrar and Clerk of the Court”.

Section 11 amended

11. Section 11 of the Act is amended—

- (a) in subsection (2)(h)—
 - (i) in subparagraph (iii), by inserting after the word “Order”, the words “or such longer period as the Master thinks fit”;
 - (ii) in subparagraph (iv), by inserting after the words “subparagraph (iii)”, the words “or such longer period as the Master thinks fit”;
 - (iii) in subparagraph (v), by inserting after the words “twenty-eight days”, the words “, or such longer period as the Master thinks fit.”;
- (b) in subsection (5), by deleting the words “no more than one extension not exceeding fourteen days to the applicant” and substituting the words “such extension as he thinks fit”; and
- (c) by inserting after subsection (5), the following subsection:

“ (6) Anything required to be filed pursuant to subsection (2) may be filed electronically.”.

Section 12 amended

12. Section 12 of the Act is amended by repealing subsection (3).

13. Section 19 of the Act is amended—

Section 19 amended

- (a) in subsection (1), by deleting the words “to put the accused on trial for an” and substituting the words “to establish a *prima facie* case of any”; and
- (b) in subsection (2), by inserting after the word “provide”, the words “, or the Master determines,”.

14. Section 20 of the Act is amended—

Section 20 amended

- (a) in subsection (1)(a), by inserting after the word “accused”, the words “and—
 - (i) no original exhibit or statement needs to be produced to the Court unless the prosecution elects to do so or the Master rules that it is in the interest of justice so to do; and
 - (ii) copy exhibits may be produced to the Court in any electronic format”;
- (b) in subsection (2), by inserting after the words “sufficient evidence”, the words “to establish a *prima facie* case”; and
- (c) by inserting after subsection (4), the following subsections:
 - “ (5) At a sufficiency hearing, an exhibit referred to in a witness statement shall be taken to have been produced before the Master and marked if an electronic copy is given, and the Master shall mark the device containing the electronic copy of the exhibit for identification in relation to its relevant witness statement.
 - (6) Notwithstanding subsections (4) and (5), the court may permit a photograph, digital recording or other image of an exhibit to be tendered in Court as evidence of the exhibit.

(7) A list of all exhibits relied on by either the prosecution or the defence shall be maintained by the Court and signed by the Master at the conclusion of the sufficiency hearing.”.

Section 21 amended

15. Section 21 of the Act is amended—

- (a) in subsection (2)(d), by deleting the word “fourteen” and substituting the word “ten”; and
- (b) in subsection (8), by inserting after the words “Coroner,”, the words “the High Court,”.

Section 24 amended

16. Section 24 of the Act is amended—

- (a) in subsection (1), by deleting the words “to put the accused on trial for” and substituting the words “to establish a *prima facie* case of”;
- (b) in subsection (4), by deleting the words “Judge for a warrant for arrest of the accused and for an order to put the accused on trial.” and substituting the following:
 - “Judge for—
 - (a) a warrant for the arrest of the accused; and
 - (b) an order to put the accused on trial.”;
- (c) in subsection (5), by inserting after the words “A request”, the words “for the record of the proceedings”;
- (d) in subsection (6), by deleting the words “under subsection (4) shall be *ex parte* and” and substituting the words “for a warrant under subsection (4) shall be made *ex parte* and”; and

(e) in subsection (7)—

(i) by deleting the words “is made under subsection (4)” and substituting the words “for a warrant under subsection (4) is granted”; and

(ii) in paragraph (a), by inserting after the words “hearing of the application”, the words “for an order”; and

(f) in subsection (9), by deleting the words “to put the accused on trial” and substituting the words “to establish a *prima facie* case of any indictable offence”.

17. Section 25 of the Act is amended by deleting the words “to put the accused on trial for” wherever they occur and substituting in each place the words “to establish a *prima facie* case of”. Section 25 amended

18. Section 26B of the Act is amended by deleting the words “evidence of a material nature” and substituting the words “relevant evidence”. Section 26B amended

19. Section 26C of the Act is amended— Section 26C amended

(a) in subsection (1), by deleting the words “to a Magistrate”;

(b) in subsection (2)—

(i) in paragraph (a), by deleting the words “under his hand”;

(ii) in paragraph (c), by deleting the word “himself” and substituting the word “itself”; and

(c) in subsections (2) and (3), by deleting the word “Magistrate”, wherever it occurs and substituting in each place, the word “Court”.

Section 29 amended **20.** Section 29 of the Act is amended by inserting after subsection (7), the following subsection:

“ (8) The production of electronic copies of exhibits and documentary evidence referred to by any witness who is called or whose statement is read, shall be sufficient evidence of the same at sufficiency hearings and at trial unless the Court directs that the original or a copy thereof be produced in the interests of justice.”.

Section 30 amended **21.** Section 30(5)(c) of the Act is amended by deleting the words “being merely of a formal nature” and substituting the words “is not in dispute”.

Section 34 amended **22.** The Act is amended by inserting after section 33, the following section:

<sup>“Amendments
of forms</sup> **34.** The Chief Justice may, by Practice Direction, amend any form contained in Schedule 1, 1A, 3, 4, 5 or 7.”.

Schedule 1 amended **23.** Schedule 1 of the Act is amended—
(a) by deleting Forms 2 and 3 and substituting the following form:

“FORM 2

[Section 5(7)]

RETURN OF PHOTOGRAPHER

I, (name, rank and number of regimental number of police officer photographer), did on (date) take (number) photograph(s)/digital recording(s)/image(s) of (description of thing(s) seized) and the said photograph(s)/digital recording(s)/image(s) was/were shown as numbers (numbers of exposures) on the photographic camera model/serial number (model and serial number of camera)/device which I used to take said photograph(s)/digital recording(s)/ image(s).

(Date)

(Signature)

FORM 3

[Section 5(7)]

RETURN OF WITNESS TO TAKING OF PHOTOGRAPHS

I, (name of person) of (address of person) was jointly present with (names of Justice of the Peace, Owner and Suspect as applicable) on (date) at (place) and witnessed the taking of (number) photograph(s)/digital recording(s)/image(s) of (description of thing(s) seized) by (name, rank and regimental number of police photographer).

(Date) (Name, address, ID No. and Signature/Mark of Witness)

(Date) (Name, address, signature and seal of Justice of the Peace)

(b) by deleting Form 4 and substituting the following form:

“FORM 4

[Section 6(1A) and 8(7A)]

REPUBLIC OF TRINIDAD AND TOBAGO

COMPLAINT WITHOUT OR UPON OATH/CHARGE
FOR AN INDICTABLE OFFENCE

IN THE HIGH COURT OF JUSTICE (CRIMINAL
DIVISION)/MAGISTERIAL DISTRICT OF

Name of Complainant: The State/Commissioner of
Police/Comptroller of Customs/Other

v.

Name of Accused:

Name of Offence:

Description of Offence: (1)

Signature of Complainant:

*[Taken before me this day of, 20.... at

.....
*(Master / Magistrate / [Senior] Magistracy Registrar
 and Clerk of the Court)*

(1) State concisely the substance of the complaint.

* Delete if complaint is without oath

Schedule 8 amended

24. Item 4 of Schedule 8 of the Act is amended in the Second Column by inserting after paragraph B, the following paragraph:

“ C. Repeal section 14B and substitute the following:

Admissibility
of computer
records

14B. Notwithstanding section 2, in any criminal proceedings, the question as to the admissibility or sufficiency of any statement contained in a document produced by a computer shall be decided in accordance with the Common Law.”.

Passed in the House of Representatives this 16th day of December, 2019.

J. SAMPSON-MEIGUEL

Clerk of the House

Passed in the Senate this 18th day of December, 2019.

B. CAESAR

Clerk of the Senate