

CRIMINAL PROCEDURE ACT

CHAPTER 12:02

Act
22 of 1925
Amended by

31 of 1931	12 of 1962
19 of 1936	8 of 1970
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11 of 1941	136/1976
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Note

The Indictment Rules are contained in the First Schedule to this Act (*See* page 34).

Note on Increase of Fines

Section 8 of the Law Revision (Miscellaneous Provisions) Act 1980 (47 of 1980) provides that as from 31st July, 1981 (date of publication of the Revised Edition of the Laws of Trinidad and Tobago), a fine prescribed by any written law not published in the Revised Edition shall be increased in accordance with the provisions of paragraph 1(*b*), (*c*) and (*d*) of the Second Schedule to the Law Revision Act, Ch. 3:03.

Note on Transfer of Provisions

Section 41A and 41B of the Interpretation Act 1962 (Act No. 2 of 1962) have been transferred to this Act and appear in this Edition as sections 47 and 48.

CHAPTER 12:02

CRIMINAL PROCEDURE ACT

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CHAPTER 12:02

CRIMINAL PROCEDURE ACT

An Act to regulate the procedure in criminal cases triable on indictment.

1950 Ed.
Ch. 4, No. 3,
22 of 1925.

[2ND JUNE 1925]

Commencement.

1. This Act may be cited as the Criminal Procedure Act.

Short title.

2. (1) In this Act, “Registrar”, “Deputy Registrar” and “Assistant Registrars” mean the Registrar, Deputy Registrar and Assistant Registrars appointed as such under the Supreme Court of Judicature Act.

Interpretation.

Ch. 4:01.

(2) The Deputy Registrar and the Assistant Registrars, may perform any duty imposed on the Registrar by sections 18(1), 19, 28, 30, 32, 44, 46, 52, 70 and 76.

PLACE, TIME AND MODE OF TRIAL

3. (1) All persons committed within the Counties of St. George, St. David and St. Andrew or within the Wards of Chaguanas and Cunupia in the County of Caroni for trial for any offence shall be tried at Port-of-Spain.

Trials in
Port-of-Spain.
[3 of 1957
4 of 1982
1 of 2000].

(2) All persons committed within the Counties of Victoria, St. Patrick, Nariva and Mayaro or within the Wards of Couva and Montserrat in the County of Caroni for trial for any offence shall be tried at San Fernando.

Trials in
San Fernando.
[3 of 1957].

(3) All persons committed within the Ward of Tobago for trial for any offence shall be tried in Tobago.

Trials in
Tobago.

(4) Notwithstanding subsections (2) and (3), a Judge may in any case either before the trial or on the arraignment of any person so committed, if satisfied that a fair trial cannot be had at San Fernando or in Tobago, order that the trial of such person shall take place at Port-of-Spain.

Transfer of case
from San
Fernando or
Tobago to
Port-of-Spain.

Director of
Public
Prosecutions—
power to
transfer cases.
[1 of 2000].

(5) Notwithstanding subsections (1), (2) and (3) the Director of Public Prosecutions, whenever he considers that the ends of justice so require, or that having regard to all the circumstances it is desirable to do so in the interests of securing the more expeditious hearing and determination of cases, may in any case—

- (a) enter for trial at San Fernando any criminal case which but for this section would be triable at Port-of-Spain;
- (b) enter for trial at Port-of-Spain any criminal case which but for this section would be triable at San Fernando;
- (c) transfer the trial of any case entered for trial at Port-of-Spain to San Fernando; and
- (d) transfer the trial of any case entered for trial at San Fernando to Port-of-Spain;
- (e) enter for trial at Tobago any criminal case which but for this section would be triable at Port-of-Spain or San Fernando;
- (f) enter for trial at Port-of-Spain any criminal case which but for this section would be triable at Tobago;
- (g) transfer the trial of any case entered for trial at Port-of-Spain, or San Fernando to Tobago;
- (h) transfer the trial of any case entered for trial at Tobago to Port-of-Spain or San Fernando;
- (i) enter for trial at Chaguaramas any criminal offence to which subsection (6) refers which but for this paragraph would otherwise be triable at Port-of-Spain, San Fernando or Tobago;
- (j) transfer the trial of any criminal offence, to which subsection (6) refers, entered for trial at Port-of-Spain, San Fernando or Tobago to Chaguaramas.

- (6) The offences to which subsection (5)(i) and (j) apply are:
- (a) all drug trafficking offences as defined in the Dangerous Drugs Act;
 - (b) all offences under sections 6, 9, 10, 12, 15 and 31 of the Firearms Act;
 - (c) all offences under Parts V and VI of the Dangerous Drugs Act;

Ch. 11:25.

Ch. 16:01.

- (d) an offence of conspiracy to commit any of the offences mentioned in paragraphs (a), (b) and (c); and
- (e) an offence of attempting, inciting, aiding, abetting, counselling, or procuring the commission of any of the offences mentioned in paragraphs (a), (b) and (c).

(7) A transfer under subsection (5) shall be effected by delivering to the Registrar, ten clear days at least before the day of trial, a warrant for such transfer signed by the Director of Public Prosecutions; and the Registrar by himself or his assistants, six clear days at least before the trial, shall serve on the accused a copy of such warrant by delivering the same to him personally, or leaving the same at the place appointed for that purpose in the recognisance entered into by the accused.

Procedure for transfer of cases. [136/1976 1 of 2000].

(8) Where a criminal case is entered for trial or transferred under this section, the case shall be tried and determined at the place to which it was so entered for trial or to which it was transferred; and all recognisances, subpoenas and proceedings in or relating to the case shall thereupon be deemed to be returnable at such place; and all witnesses who are bound by recognisance or summoned to attend the trial shall attend at such place.

Trial of cases transferred. [1 of 2000].

4. At every Criminal Sessions of the Court for the trial of criminal cases at Port-of-Spain, two of the Judges shall hold separate Courts, and each of such Judges shall try all offences that are brought before him for trial. The Chief Justice may direct that one Court only shall be held at such Sessions, and he may also if he considers it expedient to do so, direct that more than two Courts shall be held at such Sessions, and if he so directs such number of Judges as are determined by him shall hold separate Courts at such Sessions.

Number of Courts to be held at the Port-of-Spain Criminal Sessions. [3 of 1957].

5. For the purposes of any Criminal Sessions of the Court for the trial of criminal cases at San Fernando, the Chief Justice may direct that more than one Court shall be held, and if he so directs the number of Judges designated by him shall hold separate Courts at such Sessions.

Chief Justice may direct holding of more than one Court at San Fernando Criminal Sessions. [22 of 1954].

Mode of trial.

6. Every person committed for trial shall be tried on an indictment and, subject to the provisions of this Act, every such trial shall be held by and before a Judge and jury.

Issues of law.
[45 of 1979
18 of 1994].

7. Whenever any issue of law is joined between the State and any person indicted for any offence, the issue shall be tried and determined by the Court according to written law.

Issues of fact.
[45 of 1979
18 of 1994].

8. Whenever any issue of fact is joined between the State and any person indicted for any offence, the issue shall, subject to this Act, be tried and determined as nearly as may be according to written law.

PROCEEDINGS PRELIMINARY TO TRIAL

Director of
Public
Prosecutions
may discharge
prisoner.
[136/1976
18 of 1994].

9. The Director of Public Prosecutions shall have the power to order the liberation of any person committed to prison for further examination or for trial, and to discharge from prosecution any person released on bail; for which release or discharge, a writing subscribed by the Director of Public Prosecutions setting forth that he sees no grounds for prosecuting such person shall be a sufficient warrant.

Private
prosecution.
[136/1976].

10. When any party injured or complaining desires to prosecute any person for whose liberation from prison a warrant may have been issued by the Director of Public Prosecutions under section 9, it shall be competent for such party, upon entering into such recognisance as is required under this Act, to apply to the Court, or, if the Court is not in session, to any Judge, for a warrant for the further detention in prison of that person, or, in case of his being already liberated, for his recommittal for trial, and the Court or Judge shall thereupon make such order therein as the Court or Judge thinks fit.

Right of
Director of
Public
Prosecutions to
enter *nolle
prosequi*.
[136/1976

11. Where a person charged with an offence triable on indictment is committed to prison or released on bail in respect of such offence, the Director of Public Prosecutions may, at any time before the trial, file in the Court the preliminary examinations upon which such prisoner was so committed for trial or released on bail,

and put in a declaration in writing, signed by him to the effect that considering the evidence adduced against such person in the preliminary examinations to be insufficient, he will not upon such evidence further prosecute such person in respect of such offence; a copy of the said declaration, certified by the Registrar, shall be served by the Registrar by himself or his Assistants by delivering the same to the person so committed for trial or released on bail, or leaving the same at his usual place of abode or at the place specified in the recognisance for the receiving of any indictment against such person in respect of such offence; and in such case the person so committed for trial, if in custody, shall be forthwith discharged, or if released on bail, the recognisance of bail shall be discharged or cancelled; but such discharge shall not operate as a bar to any subsequent proceedings against such person on the same facts.

INDICTMENTS

12. The Rules contained in the First Schedule with respect to indictments shall have effect as if enacted in this Act, but those Rules may be added to, varied, or annulled by further Rules made by the Rules Committee of the Supreme Court under this Act.

Rules as to
indictments.
First Schedule.

13. (1) Every indictment shall contain, and shall be sufficient if it contains, a statement of the specific offence or offences with which the accused person is charged, together with such particulars as may be necessary for giving reasonable information as to the nature of the charge.

General
provisions as to
indictments.

(2) Notwithstanding any rule of law or practice, an indictment shall, subject to this Act, not be open to objection in respect of its form or contents if it is framed in accordance with the Rules under this Act.

Form of
indictments.

(3) Subject to the Rules under this Act, charges for more than one offence may be joined in the same indictment.

Joinder of
charges in the
same indictment.
[45 of 1979].

14. (1) Where, before trial, or at any stage of a trial, it appears to the Court that the indictment is defective, the Court shall make such order for the amendment of the indictment as the Court thinks necessary to meet the circumstances of the case, unless, having regard to the merits of the case, the required amendments cannot be made without injustice.

Orders for
amendment of
indictment,
separate trial,
and
postponement
of trial.
[18 of 1994].

(2) Where an indictment is so amended, a note of the order for amendment shall be endorsed on the indictment, and the indictment shall be treated for the purposes of the trial and for the purposes of all proceedings in connection therewith as if it had been originally presented in the amended form.

(3) Where, before trial, or at any stage of a trial, the Court is of opinion that a person accused may be prejudiced or embarrassed in his defence by reason of being charged with more than one offence in the same indictment, or that for any other reason it is desirable to direct that the person should be tried separately for any one or more offences charged in an indictment, the Court may order a separate trial of any count, or counts of such indictment.

(4) Where, before trial, or at any stage of a trial, the Court is of opinion that the postponement of the trial of a person accused is expedient as a consequence of the exercise of any power of the Court under this Act to amend an indictment or to order a separate trial of a count, the Court shall make such order as to the postponement of the trial as appears necessary.

(5) Where an order of the Court is made under this section for a separate trial or for the postponement of a trial—

- (a) if such an order is made during a trial, the Court may order that the jury are to be discharged from giving a verdict on the count or counts the trial of which is postponed or on the indictment, as the case may be; and
- (b) the procedure on the separate trial of a count shall be the same in all respects as if the count had been presented in a separate indictment, and the procedure on the postponed trial shall be the same in all respects (if the jury has been discharged) as if the trial had not commenced; and
- (c) the Court may make such order as to releasing the accused person on bail, and as to the enlargement of recognisances, and otherwise, as the Court thinks fit.

(6) Any power of the Court under this section shall be in addition to and not in derogation of any other power of the Court for the same or similar purposes.

15. (1) Nothing in sections 12, 13 and 14 or Rules made under this Act shall affect the law or practice relating to the jurisdiction of a Court or the place where an accused person can be tried, nor prejudice or diminish in any respect the obligation to establish by evidence according to law any acts or intentions which are legally necessary to constitute the offence with which the person accused is charged, nor otherwise affect the laws of evidence in criminal cases. Savings.

(2) The provisions of sections 12, 13 and 14 relating to indictments shall apply to any plea, replication or other criminal pleading, with such modifications as may be made by Rules under this Act. Application to criminal informations, etc. [45 of 1979].

ATTENDANCE OF WITNESSES

16. Every person who is bound by recognisance to attend at any Criminal Sessions as a witness, whether for the prosecution or for the defence, in any case to be tried at such Sessions, shall be bound to attend the Court, whether or not he has received any subpoena or notice, on the day appointed for the trial of such case, and on subsequent days of the Sessions, until the case has been disposed of, or until he has been discharged by the Court from further attendance. Attendance of witness bound by recognisance to attend.

17. (1) Every person whose attendance as a witness, whether for the prosecution or for the defence, is required in any case, and who has not been bound by recognisance to attend as a witness at the Criminal Sessions at which such case is to be tried, shall be summoned by a writ of subpoena. Writs of subpoena.

(2) Every such subpoena shall issue in the name of the State and shall be tested in the name of the Chief Justice.

18. (1) Subject to subsection (2), the Registrar shall on being furnished with the names and places of abode of any witnesses on behalf of the prosecution or defence whose attendance is required to be secured by subpoena, prepare for service a writ or writs of subpoena directed to such witnesses, together with as many copies thereof, as there may be witnesses named in such writ or writs. Duty to prepare subpoenas. [12 of 1962].

(2) Notwithstanding subsection (1), the Registrar may, before a subpoena directed to any witness whose attendance is required on behalf of the defence is prepared, require to be satisfied by evidence on oath or otherwise that that witness is likely to be able to give material evidence, and the Deputy Registrar or an Assistant Registrar may exercise the like powers in relation to any application for any such subpoena directed to the Registrar. Nothing in this subsection shall be deemed to prejudice any right or power of the Court at the trial to call, or permit to be called, any witness.

(3) When application is made to postpone any trial by reason of the absence of any witness, it shall be taken as *prima facie* evidence, liable nevertheless to be rebutted, that the party applying for such postponement has not exercised all due and necessary diligence to secure the attendance of such witness if it appears that no subpoena to such witness was requested four clear days at the least before the first day of the Criminal Sessions.

Service of
subpoenas.

19. The Registrar, by himself or his assistants, shall with all diligence, serve, or attempt to serve, a copy of the writ of subpoena upon each witness to be served, and shall note every such service or attempted service with the time thereof upon the original writ of subpoena, and shall endorse and subscribe thereon a certificate of the service or non-service thereof, as the circumstances of the case may require; any such certificate shall be *prima facie* evidence of the facts stated therein.

Warrant for
apprehension of
witness not
attending on
recognisance.

20. If any person who has been bound by recognisance to attend as a witness, whether for the prosecution or for the defence, at the trial of any case does not attend the Court on the day appointed for the trial of such case, and no reasonable excuse is offered for such non-attendance, the Court may issue a warrant to apprehend such person and to bring him, at a time to be mentioned in the warrant, before the Court in order to give evidence on behalf of the prosecution or of the defence, as the case may be.

Warrant for
apprehension of
witness
disobeying
summons.

21. If any person to whom any writ of subpoena is directed does not attend the Court at the time and place mentioned therein, and no reasonable excuse is offered for such non-attendance, then, after proof upon oath, to the satisfaction of the Court, that the writ

was duly served, or that the person to whom the writ is directed wilfully avoids service, the Court, being satisfied, by proof upon oath, that he is likely to give material evidence, may issue a warrant to apprehend such person, and to bring him, at a time to be mentioned in the warrant, before the Court in order to give evidence on behalf of the prosecution or of the defence, as the case may be.

22. Any person who makes default in attending as a witness in either of the cases mentioned in section 20 or 21 is liable, on the summary order of the Court, to a fine of one thousand dollars, and in default of payment, to imprisonment for two months.

Fine for non-attendance of witness.

23. (1) If a Judge is satisfied, by proof upon oath, that any person likely to give material evidence either for the prosecution or for the defence, on the trial of any case, will not attend to give evidence without being compelled to do so, he may order that, instead of a subpoena being issued, a warrant shall be issued in the first instance for the apprehension of such person.

Warrant for apprehension of witness in first instance.

(2) Every person arrested under any such warrant shall, if the trial of the case for which his evidence is required is appointed for a time which is more than twenty-four hours after the arrest, be taken before a Judge, and the Judge may, on his furnishing security by recognisance, to the satisfaction of the Judge, for his appearance at such trial, order him to be released from custody, or shall, on his failing to furnish such security, order him to be detained for production at such trial.

24. (1) If any person attending the Court as a witness, either on his recognisance, or in obedience to a subpoena, or by virtue of a warrant, or being present in Court and being verbally required by the Court to give evidence in any case—

Mode of dealing with witness refusing to be sworn, etc.

- (a) refuses to be sworn as a witness; or
- (b) having been sworn as a witness, refuses to answer any question put to him by or with the sanction of the Court; or
- (c) refuses or neglects to produce any document which he is required by the Court to produce,

without in any such case offering any sufficient excuse for such refusal or neglect, the Court may, if it thinks fit, adjourn or postpone the trial of the case for any period not exceeding eight days, and may in the meantime, by warrant, commit such person to prison.

(2) If such person, upon being brought before the Court at or before such adjourned or postponed trial, again refuses to do what is so required of him, the Court may, if it thinks fit, again adjourn or postpone the trial of the case, and commit him in like manner, and so again from time to time until such person consents to do what is so required of him.

(3) Every such person who is guilty of such refusal or neglect is also liable, on the summary order of the Court, either in addition to or in lieu of such punishment, to a fine of one thousand dollars, and in default of payment, to imprisonment for two months.

(4) Nothing herein contained shall affect the liability of any such person to any other punishment or proceeding for refusing or neglecting to do what is so required of him, or shall prevent the Court from disposing of the case in the meantime, according to any other sufficient evidence produced before it.

Non-attendance
of witness
adjourned trial.

25. Every witness who is present when the trial or further trial of a case is adjourned, or who has been duly notified of the time to which such trial or further trial is so adjourned, shall be bound to attend at such time, and in default of so doing, may be dealt with in the same manner as if he had failed to attend before the Court in obedience to a subpoena to attend and give evidence.

EXPENSES OF WITNESSES

Expenses of
witnesses for
the prosecution.
[45 of 1979].

26. Where any person appears before the Court on recognisance, or subpoena, or by virtue of a warrant, to give evidence against any person accused of an offence, the Court may order payment of the costs and expenses of such witness together with compensation for his trouble and loss of time.

27. The Court may, in its discretion, at the request of any person who appears before it on recognisance, or subpoena, or by virtue of a warrant, to give evidence on behalf of an accused person, order payment to such witness of such sum of money as the Court thinks reasonable and sufficient to compensate him for the expenses, trouble, and loss of time which he incurred or sustained in attending before the examining Magistrate and the Court.

Expenses of witnesses for accused.

28. (1) The amount of the expenses and compensation payable to any witness attending before the Court shall be ascertained by the Registrar and certified under his hand, and, on being allowed by a Judge under his hand, shall be paid to the witness by the Comptroller of Accounts.

Ascertainment of witness's expenses.

(2) The amount of the expenses and compensation payable to any witness attending before a Magistrate shall be ascertained by the certificate of such Magistrate granted before the attendance of the witness in the Court, and, on being allowed by a Judge under his hand, shall be paid to the witness by the Comptroller of Accounts.

PROCEEDINGS AT TRIAL AND SUBSEQUENT PROCEEDINGS

29. Where any person against whom an indictment has been duly preferred, and who is then at large, does not appear to plead to such indictment, whether he is under recognisance to appear or not, the Court may issue a warrant for his apprehension.

Bench warrant where accused person does not appear.

- 30.** (1) Where a person is arraigned on an indictment—
- (a) he shall in all cases be entitled to make a plea of not guilty in addition to any demurrer or special plea;
 - (b) he may plead not guilty of the offence specifically charged in the indictment but guilty of another offence of which he might be found guilty on that indictment;
 - (c) if he stands mute of malice or will not answer directly to the indictment, the Court may order the Registrar or officer deputising as such to enter a plea of not guilty on his behalf, and he shall then be treated as having pleaded not guilty.

Arraignment of accused person. [45 of 1979].

(2) On an indictment for murder a person found not guilty of murder may be found guilty—

- (a) of manslaughter;
- (b) of any offence of which he may be found guilty under a written law specifically so providing or under section 5 of the Criminal Law Act; or
- (c) of an attempt to commit murder, or of an attempt to commit any other offence of which he might be found guilty,

Ch. 10:04.

but may not be found guilty of an offence not included above.

(3) Where, on a person's trial on indictment for any offence except treason or murder, the jury find him not guilty of the offence specifically charged in the indictment, but the allegations in the indictment amount to or include (expressly or by implication) an allegation of another offence falling within the jurisdiction of the Court of trial, the jury may find him guilty of that other offence or of an offence of which he could be found guilty on an indictment specifically charging that other offence.

(4) For the purposes of subsection (3) any allegation of an offence shall be taken as including an allegation of attempting to commit that offence; and where a person is charged on indictment with attempting to commit an offence or with any assault or other act preliminary to an offence, but not with the completed offence, then (subject to the discretion of the Court to discharge the jury with a view to the preferment of an indictment for the completed offence) he may be convicted of the offence charged notwithstanding that he is shown to be guilty of the completed offence.

(5) Where a person arraigned on an indictment pleads not guilty of an offence charged in the indictment but guilty of some other offence (whether an offence of which he might be found guilty on that charge or an offence separately charged), and he is convicted on that plea of guilty without trial for the offence of which he has pleaded not guilty, his conviction of the one offence shall be an acquittal of the other.

(6) Any power to bring proceedings for an offence by criminal information in the Court is hereby abolished.

(7) Subsections (1) to (3) apply to an indictment containing more than one count as if each count were a separate indictment.

31. Every accused person shall, on being called upon to plead, be entitled to have the indictment on which he is to be tried read over to him. Indictment to be read to accused.

32. The accused on being arraigned on any indictment may plead the general issue *ore tenus*, or he may in writing demur or plead any matter of law or fact which he would be permitted to plead according to the law in force in England on the 30th August 1962, upon which demurrer or plea in writing the Registrar, on behalf of the State may instanter join in demurrer, or demur, or reply. Procedure on plea or demurrer by accused.

33. In any plea of *autrefois convict* or *autrefois acquit* it shall be sufficient for any defendant to state that he has been lawfully convicted or acquitted (as the case may be) of the offence charged in the indictment. Plea of *autrefois convict* or *autrefois acquit*.

34. Where a prisoner is arraigned on an indictment for any offence, and can lawfully be convicted on the indictment of some other offence not charged in the indictment, he may plead not guilty of the offence charged in the indictment, but guilty of the other offence. Alternative plea.

35. Any accused person, on arraignment, may, if committed for trial less than six clear days before the day of his arraignment, require that his trial be postponed to the next Criminal Sessions held at the place at which he is arraigned, and the Court shall make order accordingly. Accused may require postponement.

36. In any case where the trial of an accused person is postponed, the Court may respite the recognisance of the accused person and his surety or sureties, if any, accordingly, and in such case the accused person shall be bound to appear to be tried at the time and place to which such trial may be postponed, without entering into any fresh recognisance for that purpose, in such and the same manner as if he was originally bound by his recognisance to appear and be tried at the time and place to which such trial has been so postponed. Effect on recognisance of postponement of trial.

Effect of plea of not guilty.

37. If the accused person pleads not guilty, he shall, by such plea, without any further form, be deemed to have put himself upon the country for trial, and the Court shall order a jury for the trial of the accused person accordingly.

Proof by formal admission.
[16 of 2005].

37A. (1) Subject to the provisions of this section, any fact of which oral evidence may be given in any criminal proceedings may be admitted for the purpose of those proceedings by the Attorney-at-law for the prosecution or the accused person or his Attorney-at-law, and the admission by any party of any such fact under this section shall, as against that party, be conclusive evidence in those proceedings of the fact admitted.

(2) An admission under this section—

- (a) may be made before or at the proceedings;
- (b) if made otherwise than in Court, shall be in writing;
- (c) if made in writing by an individual, shall purport to be signed by the person making it and, if so made by a body corporate, shall purport to be signed by a director or corporate secretary of the body corporate;
- (d) if made on behalf of a defendant who is an individual, shall be made by his Attorney-at-law; and
- (e) if made at any stage before the trial by a defendant who is an individual, must be approved by his Attorney-at-law, whether at the time it was made or subsequently, before or at the proceedings in question.

(3) An admission under this section for the purpose of proceedings relating to any matter shall be treated as an admission for the purpose of any subsequent criminal proceedings relating to that matter.

Case for the prosecution.

38. After the accused person has been given in charge to the jury, or when the jury have been sworn, the Attorney-at-law for the prosecution may open the case against the accused person, and adduce evidence in support of the charge.

Case for the defence.

39. The accused person or his Attorney-at-law shall be allowed, if he thinks fit, to open his case, and, after the conclusion

of such opening, the accused person or his Attorney-at-law shall be entitled to adduce evidence in support of the defence, and when all the evidence is concluded, to sum up the evidence.

40. The Attorney-at-law for the prosecution shall in all cases have the right of reply. Right of reply.

41. The Court shall have full power and authority, during any part of the trial, or after the case on both sides has been closed, to call up and examine any witness, whether such witness has been produced before the Court in the course of the trial or not. Calling of witnesses by Judge.

42. When the case on both sides is closed, the Judge shall, if necessary, sum up the law and evidence in the case. Summing up.

42A. The Judge may, after consultation with the Attorney-at-law for the prosecution and, the accused person or his Attorney-at-law, provide written directions to the jury on matters of substantial complexity. Written directions to jury. [16 of 2005].

43. After the Judge's summing up, or, if there is no summing up, on the conclusion of the case on both sides, the jury shall consider their verdict. Consideration of verdict.

44. The verdict, when returned by the jury and accepted by the Court, shall be entered by the Registrar or officer deputising as such, on the back of the indictment or on a sheet of paper annexed thereto, before the jury are discharged. Recording of verdict.

45. If the jury find the accused person not guilty, he shall be immediately discharged from custody on that indictment. Verdict of not guilty.

46. (1) Whenever any person is convicted by the verdict of the jury, or on his own confession, the Registrar, or officer deputising as such before the Court passes judgment, shall enquire and ask if such offender has anything to say why judgment should not be awarded against him, and in case such offender does not allege any matter or thing sufficient in law to arrest such judgment, the Court shall, immediately after conviction, or at any time during the same or the next succeeding Criminal Sessions, pronounce judgment, and sentence the prisoner to undergo such punishment as the Court sees fit. Sentence after conviction. [18 of 1994].

Ch. 4:60. (2) Where a defendant is brought up for judgment on an indictment, affidavits may be read and the Attorney-at-law may be heard in support of the prosecution and on behalf of the defendant; and the Court may, if it sees fit, postpone its judgment and grant bail to the defendant according to the Bail Act, on the condition that he undertakes to appear and receive judgment whenever he is ordered to be brought up for that purpose.

(3) Nothing contained in this section shall extend or be construed to prevent the Court from reserving the consideration of any question of law arising upon any criminal trial.

Where no penalty specified for indictable offence.

47. Where a person is convicted on indictment of an offence against any written law and no penalty is prescribed by any written law or the person is for that offence liable to be sentenced to imprisonment, but the sentence is not by any written law either limited to a specified term or expressed to extend to imprisonment for life, the person so convicted shall be liable to imprisonment for two years.

Power to impose fine.

48. Where a person is convicted on indictment of any offence other than a capital offence, the Court, if not precluded from sentencing the offender by its exercise of some other power (such as the power to make a probation order), may impose a fine in lieu of or in addition to dealing with him in any other way in which the Court has power to deal with him, subject however to any enactment limiting the amount of the fine that may be imposed or requiring the offender to be dealt with in a particular way.

Consecutive periods of imprisonment.

49. Whenever sentence is passed for any offence on any person already under sentence of imprisonment for another offence, the Court may award imprisonment for the subsequent offence to commence at the expiration of the imprisonment to which such person has been previously sentenced.

Conviction for arrestable offence after previous conviction. [16 of 2005].

50. (1) If any person is convicted of an arrestable offence, not punishable with death, committed after a previous conviction for an arrestable offence, such person is liable to imprisonment for life or for any term of years.

(2) Without prejudice to the offences listed in the Schedule to the Corporal Punishment (Offenders Over Eighteen) Act, a person convicted under subsection (1) may also be sentenced to undergo corporal punishment in accordance with the requirements of the Corporal Punishment (Offenders Over Eighteen) Act. Ch. 13:04.

51. (1) The proceedings upon any indictment for committing any offence after a previous conviction or convictions shall be as follows; that is to say, the offender shall, in the first instance, be arraigned upon so much only of the indictment as charges the subsequent offence, and if he pleads not guilty, or if the Court orders a plea of not guilty to be entered on his behalf, the jury shall be charged, in the first instance, to enquire concerning such subsequent offence only; and if they find him guilty, or if on arraignment he pleads guilty, he shall then, and not before, be asked whether he has been previously convicted as alleged in the indictment, and if he answers that he has been so previously convicted, the Court may proceed to sentence him accordingly, but if he denies that he has been so previously convicted, or stands mute of malice, or will not answer directly to such question, the jury shall then be charged to enquire concerning such previous conviction or convictions, and in such case it shall not be necessary to swear the jury again, but the oath already taken by them shall for all purposes be deemed to extend to such last mentioned enquiry. Procedure in case of previous convictions.

(2) If, upon the trial of any person for any such subsequent offence, such person gives evidence of his good character, the Attorney-at-law for the prosecution may, in answer thereto, give evidence of the conviction of such person for the previous offence or offences before such verdict of guilty is returned, and the jury shall enquire concerning such previous conviction or convictions at the same time that they enquire concerning such subsequent offence.

52. (1) A previous conviction may be proved in any legal proceeding by producing a record or extract of such conviction, and by giving proof of the identity of the person against whom the conviction is sought to be proved with the person appearing in the record or extract of conviction to have been convicted. Proof of previous conviction.

(2) A record or extract of a conviction, where the conviction was on indictment, shall consist of a certificate containing the substance and effect only (omitting the formal part) of the indictment and conviction, and purporting to be signed by the Registrar or other officer having the custody of the records of the Court by which such conviction was made; and in the case of a summary conviction shall consist of a copy of such conviction purporting to be signed by any Magistrate or Justice having jurisdiction over the offence in respect of which such conviction was made, or by the Clerk of the Peace or other proper officer of the Court by which such conviction was made.

(3) A record or extract of any conviction made in pursuance of this section shall be admissible in evidence without proof of the signature or official character of the person appearing to have signed the same.

(4) The mode of proving a previous conviction authorised by this section shall be in addition to and not in exclusion of any other authorised mode of proving such conviction.

Persons convicted may be condemned in costs. [136/1976].

53. (1) The Court may, when pronouncing judgment upon the conviction of any person for any offence, in addition to such sentence as may otherwise by law be passed, condemn such person to the payment of the whole or any part of the costs or expenses incurred in or about the prosecution and conviction for the offence of which he is convicted, if the Court thinks fit to do so; and the payment of such costs and expenses, or any part thereof, may be ordered by the Court to be made out of any moneys taken from such person on his apprehension, or may be enforced at the instance of the Director of Public Prosecutions or of any person liable to pay or who may have paid such costs and expenses, in the same manner (subject to the provisions of this Act) as the payment of any costs ordered to be paid by the judgment or order of the Court in civil cases may be enforced.

(2) In the meantime and until the recovery of such costs and expenses from the person so convicted as mentioned above, or from his estate, the same shall be paid and provided for in the same manner as if this section were not in force; and any money which may be recovered in respect thereof from the person so convicted, or from his estate, shall be applicable to the reimbursement of any person or fund by whom or out of which such costs and expenses may have been paid or defrayed.

54. The Court may, if it thinks fit, upon the application of any person aggrieved, and immediately after the conviction of any person for any offence, award any sum of money, not exceeding fifty thousand dollars, by way of satisfaction or compensation for any loss or injury suffered by the applicant through or by means of the said offence, and the amount awarded for such satisfaction or compensation shall be deemed a judgment debt due to the person entitled to receive the same from the person so convicted, and the order for payment of such amount may be enforced in the same manner as in the case of any costs ordered by the Court to be paid under section 53.

Compensation to persons defrauded or injured. [28 of 1996].

55. The Court may, in any case where a person prosecuted at the instance of a private party is acquitted, adjudge the prosecutor to pay to the party prosecuted the whole or any part of the costs and expenses which may have been occasioned to him by the prosecution.

Costs of private prosecution.

56. Where a person is convicted on indictment of an offence for which imprisonment may be awarded, the Court may sentence him to be imprisoned in the Port-of-Spain Prison and also direct that he shall be kept in solitary confinement for any portion or portions of such imprisonment, not exceeding one month at any one time, and not exceeding three months in any one year, as the Court thinks fit.

Place of imprisonment.

Solitary confinement.

57. (1) Every warrant for the execution of any prisoner under sentence of death shall be under the hand and Seal of the President, and shall be directed to the Marshal, and shall be carried into execution by such Marshal or his assistant at such time and place as mentioned in the warrant; and the warrant shall be in the form set out as Form A in the Second Schedule; and there shall issue in every such case a warrant for the delivery of the prisoner by the Keeper of the Port-of-Spain Prison to the said Marshal for the purpose of such execution and such last mentioned warrant shall be under the hand and Seal of the President and shall be in the form set out as Form B in the Second Schedule.

Warrant of execution.

Second Schedule. Form A.

Form B.

(2) The President may, by warrant under his hand and Seal directed to the Marshal, respite any such execution and, by the same or any subsequent warrant so signed and sealed, order such execution to be carried into effect at such time and place as shall be appointed and specified in the warrant, in

which case the execution shall be done at such time and place as shall be so appointed.

**PROCEDURE ON COMMITTAL OF ACCUSED
FOR SENTENCE**

Accused to be brought before a Judge to be dealt with. [136/1976]. Ch. 12:01.

58. (1) As soon as convenient after the filing of an indictment against an accused person committed for sentence as provided by the Indictable Offences (Preliminary Enquiry) Act, the Registrar shall issue a summons to the accused person to appear, and if he is in custody an order to the gaoler to bring him before a Judge of the High Court at a time to be fixed by the Judge, and the Registrar shall notify the Director of Public Prosecutions accordingly.

Plea by accused committed for sentence.

(2) The accused person shall be called upon to plead to the indictment in the same manner as if he had been committed for trial, and he may plead either that he is guilty of the offence charged in the indictment or, with the consent of the prosecutor, of any other offence of which he might be convicted on the indictment.

Proceedings on plea of not guilty or if indictment is not sustainable. [18 of 1994].

(3) If the accused person pleads in the Court that he is not guilty, or if although he pleads that he is guilty it appears to the Court, upon the examination of the depositions of the witnesses, that he has not in fact committed the offence charged in the indictment, or any other offence of which he might be convicted on the indictment, the plea of not guilty shall be entered, and the trial is to proceed as in other cases when that plea is entered, and the Judge shall postpone the case for trial by a jury at the regular Criminal Sessions of the Court, and may remand the accused to prison or grant him bail in the meantime according to the Bail Act.

Ch. 4:60.

Special pleas competent to person committed for sentence. [18 of 1994].

(4) An accused person committed for sentence may plead *autrefois acquit*, *autrefois convict*, pardon or such special plea as he would be permitted to plead according to written law and in such case unless the accused person and the prosecutor and the Judge consent to the issue being tried by the Judge without a jury, the Judge shall postpone the case for trial by a jury as provided in subsection (3).

Withdrawal by accused of consent to his committal for sentence.

59. (1) An accused person may at any time before he is brought up for sentence give notice in writing to the Registrar

that he desires to withdraw his consent to be committed for sentence, and in such case he shall not be taken before the Court for sentence but shall be brought up for trial at the regular Criminal Sessions of the Court.

(2) The notice shall be filed on record in the Registrar's Office, and the Registrar shall notify the Director of Public Prosecutions of the withdrawal of the consent to committal for sentence; and such notice may be put in evidence at the trial or mention may be made at the trial of the fact that such notice was given.

Filing of notice of withdrawal. Evidence thereof. [136/1976].

(3) In the event of the accused person withdrawing his plea of guilty or pleading not guilty, the Director of Public Prosecutions may refer back the case to the Magistrate in the manner and for the purposes stated in section 26 of the Indictable Offences (Preliminary Enquiry) Act.

Case may be referred back to the Magistrate. [136/1976].

Ch. 12:01.

60. (1) A Judge of the Court when sitting to deal with persons committed for sentence shall, subject to these provisions, possess all the powers, authorities and jurisdiction vested in the Court, with respect to the trial of criminal cases in the exercise of the ordinary criminal jurisdiction of the Court.

Powers of Court and Judge when dealing with committals for sentence.

(2) The Registrar or other proper officer shall attend before a Judge in any proceedings respecting persons committed for sentence, and keep a record thereof in like manner as in other proceedings in the Court.

Attendance of officials, and records in such cases.

61. (1) A person committed for trial, whether he is in custody or not, may, if he wishes to plead guilty and be sentenced prior to the regular Criminal Sessions of the Court, file with the Registrar a notice in writing to that effect; the notice shall be filed of record in the Registrar's Office.

Notice by person committed for trial of intention to plead guilty.

(2) In such case the Registrar shall notify the Judge and the Director of Public Prosecutions, or other prosecutor, of such notice and the subsequent proceedings shall be as in the case of a person committed for sentence and the provisions of sections 58, 59 and 60 shall *mutatis mutandis* apply.

Subsequent proceedings as for committal for sentence. [136/1976].

SENTENCE TO BE PASSED ON AN EXPECTANT MOTHER GUILTY OF A CAPITAL OFFENCE

62. (1) Where a woman convicted of an offence punishable with death is found in accordance with this section to be

Sentence of death not to be passed on pregnant woman.

pregnant, the sentence to be passed on her shall be a sentence of imprisonment for life instead of sentence of death.

Procedure where woman convicted of capital offence alleges she is pregnant.

(2) Where a woman convicted of an offence punishable with death alleges that she is pregnant, or where the Court before whom a woman is so convicted thinks fit so to order, the question whether or not the woman is pregnant shall, before sentence is passed on her, be determined by a jury.

Constitution of the jury.

(3) Subject to subsections (4) and (5), the said jury shall be the trial jury, that is to say the jury to whom she was given in charge to be tried for the offence, and the members of the jury need not be resworn.

(4) If any member of the trial jury, either before or after the conviction, dies or is discharged by the Court as being through illness incapable of continuing to act or for any other cause, the inquiry as to whether or not the woman is pregnant shall proceed without him.

(5) Where there is no trial jury, or where a jury have disagreed as to whether the woman is or is not pregnant, or have been discharged by the Court without giving a verdict on that question, the jury shall be constituted as if to try whether or not she was fit to plead, and shall be sworn in such manner as the Court may direct.

Evidence and proof.

(6) The question whether the woman is pregnant or not shall be determined by the jury on such evidence as may be laid before them either on the part of the woman or on the part of the State and the jury shall find that the woman is not pregnant unless it is proved affirmatively to their satisfaction that she is pregnant.

Appeal.

Ch. 4:01.

(7) Where on proceedings under this section the jury find that the woman in question is not pregnant, the woman may appeal under the Supreme Court of Judicature Act to the Court of Appeal, and that Court, if satisfied that for any reason the finding should be set aside, shall quash the sentence passed on her and instead thereof pass on her a sentence of imprisonment for life.

Right to allege pregnancy in stay of execution abolished.

(8) The rights conferred by this section on a woman convicted of an offence punishable with death shall be in substitution for the right of such a woman to allege in stay of execution that she is quick with child, and the last mentioned right shall cease.

TRIAL AND VERDICT IN CASES OF INFANTICIDE

63. (1) Where a woman by any wilful act causes the death of her child, being a child under the age of twelve months, but at the time of the act the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent upon the birth of the child, then, notwithstanding that the circumstances were such that but for this section the offence would have amounted to murder, she shall be guilty of infanticide, and may for such offence be dealt with and punished as if she had been guilty of the offence of manslaughter of the child.

Offence of infanticide.

(2) Where upon the trial of a woman for the murder of her child, being a child under the age of twelve months, the jury are of opinion that she by any wilful act caused its death, but that at the time of the act the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent upon the birth of the child, then the jury may, notwithstanding that the circumstances were such that but for this section they might have returned a verdict of murder, return in lieu thereof a verdict of infanticide.

(3) Nothing in this section shall affect the power of the jury upon an indictment for the murder of a child to return a verdict of manslaughter, or a verdict of guilty but insane, or a verdict of concealment of birth, in pursuance of section 58 of the Offences Against the Person Act.

Ch. 11:08.

ARRAIGNMENT AND TRIAL OF INSANE PERSONS

64. If any accused person appears, on arraignment, to be insane, the Court may order a jury to be empanelled to try the sanity of such person, and the jury shall thereupon, after hearing evidence for that purpose, find whether such person is or is not insane and unfit to take his trial.

Procedure where person indicted appears on arraignment to be insane.

65. (1) If, during the trial of an accused person, such person appears, after the hearing of evidence to that effect or otherwise, to the jury before whom he is tried, to be insane, the Court shall in such case direct the jury to abstain from finding a verdict upon the indictment, and, in lieu thereof, to return a verdict that such person is insane.

Procedure where person indicted appears during trial to be insane.

(2) A verdict under this section shall not affect the trial of any person so found to be insane for the offence for which he was indicted, in case he subsequently becomes of sound mind.

Special verdict where accused person found guilty, but insane at date of act charged.

66. Where, in an indictment, any act is charged against any person as an offence, and it is given in evidence on the trial of such person for that offence that he was insane, so as not to be responsible according to law for his actions at the time when the act was done, then, if it appears to the jury before whom such person is tried that he did the act charged, but was insane as mentioned above at the time when he did the same, the jury shall return a special verdict to the effect that the accused person was guilty of the act charged against him, but was insane as mentioned above at the time when he did the act.

Provision for custody of accused person found insane. [136/1976].

67. Where a person is found to be insane under section 64 or section 65, or has a special verdict found against him under section 66, the Court shall direct the finding of the jury to be recorded, and thereupon the Court may order such person to be detained in safe custody, in such place and manner as the Court thinks fit until the President's pleasure is known.

Court to report finding to President. [30 of 1975].

68. The Court shall as soon as practicable, report the finding of the jury and the detention of the person to the President who shall order the person to be dealt with as a mentally ill person in accordance with the laws governing the care and treatment of such persons or in any other manner he may think necessary.

PARDON AND COMMUTATION OF SENTENCES

Free or conditional pardon.

69. (1) Where the President, in the name and on behalf of the State, grants to any offender either a free or a conditional pardon, the discharge of such offender out of custody in the case of a free pardon, and the performance of the condition in the case of a conditional pardon, shall have for such offender, as to the offence for which such pardon is so granted, the same effect as a pardon under the Great Seal of the United Kingdom would have had in England on 2nd June 1925.

(2) No free pardon, nor any such discharge in consequence thereof, nor any conditional pardon, nor the performance of the condition thereof, in any of the cases mentioned above, shall

prevent or mitigate the punishment to which the offender might otherwise be lawfully sentenced on a subsequent conviction for any offence committed after the granting of any such pardon.

70. When any person is convicted of any crime punishable by death, if the President in the name and on behalf of the State intends to extend mercy to any such person upon condition of imprisonment, and such intention of mercy is signified by the President to the Court during the Criminal Sessions at which such person was convicted, the Court shall allow to such person the benefit of a conditional pardon, and make an order for imprisonment, of such person; and where such intention of mercy is so signified to the Court at any time when the Court is not in session, the Chief Justice shall allow to such person the benefit of a conditional pardon, and make an order for the imprisonment of such person, in the same manner as if such intention of mercy had been signified to the Court during the Criminal Sessions at which such person was convicted; and such allowance and order shall be considered as an allowance and order made by the Court, and shall be entered on the records of the Court by the Registrar, and shall be as effectual to all intents and purposes as if such allowance had been made by the Court during the continuance of the same Criminal Sessions, and every such order shall subject the person to be so imprisoned.

Commutation of punishment.

EVIDENCE

71. It shall not be necessary for the conviction of any person charged with any offence that the offence be proved by the direct or positive testimony of any witness, but the evidence given on the trial (although circumstantial only) shall be left by the Court to the consideration of the jury, and the jury may bring in a verdict of guilty upon such evidence, if they are satisfied with the same as sufficient to establish the guilt of the person charged.

Circumstantial evidence.
[45 of 1979].

72. All questions that arise touching the form, sufficiency or effect of any indictment or subsequent pleading, or touching the admissibility of any defence, or of any witness called to give evidence, or of any evidence, or of any question put to any witness, or of any document, paper, matter or thing tendered in evidence, or upon any matter or cause alleged for setting aside any

Admissibility of evidence.

verdict or staying or reversing any judgment, shall be decided by the Court as nearly as may be according to the law in force in England on the 30th August 1962.

Description of
coin and notes.

73. (1) In every indictment in which it is necessary to make any averment as to any money or any currency note, it shall be sufficient to describe such money or currency note simply as money, without specifying any particular coin or currency note; and such averment, so far as regards the description of the property, shall be sustained by proof of any amount of coin, or of any currency note, although the particular species of coin of which such amount was composed, or the particular nature of the currency note, is not proved, and in cases of embezzlement and obtaining money or currency notes by false pretences, by proof that the offender embezzled or obtained any piece of coin or any currency note, or any portion of the value thereof, although such piece of coin or currency note may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same, or to any other person, and such part had been returned accordingly.

Currency note.

(2) For the purposes of this section, the expression “currency note” includes a Government currency note and a currency note as defined by the Currency Act.

3 of 1965.

MISCELLANEOUS PROVISIONS

Marshal to
attend all
sittings of
Court.

74. The Marshal or his deputy or assistant shall be in attendance in Court at all times whilst the Court is sitting, and shall bring the prisoner before it, and during the continuance of the trial to have him under his charge and custody, and from time to time to remand him to prison by permission or order of the Court during the progress of the trial or any adjournment thereof.

Gaol delivery.

75. The Court at the close of every Criminal Sessions held in Port-of-Spain shall discharge all such prisoners entitled by law to be discharged; and the Keeper of Port-of-Spain Prison shall, on the last day of each such Sessions, deliver or cause to be delivered to the Court a list of all persons confined within such Prison and committed for trial before the Court, but who have not then been tried or upon whom sentence has not then been passed, together with the date and cause of commitment in each case and the name of the committing authority.

76. (1) In every case where an accused person, bound by recognisance to appear at any Criminal Sessions or for whose appearance any other person is so bound, fails to appear, the Registrar shall prepare a return in writing, in respect of such non-appearance.

Procedure for enforcing recognisance. [136/1976].

(2) Such return shall distinguish the principal from the sureties and shall contain—

- (a) the name of every such person so making default;
- (b) the nature of the offence in respect of which every such person or surety was so bound;
- (c) the residence of every such person or surety;
- (d) the trade, calling or profession of every such person or surety;
- (e) the statement of the cause, if known, why each such person has not appeared.

(3) On the last day of each Criminal Sessions the Registrar shall lay such return before the Court, and the Court shall examine such return, and, on the application of the Director of Public Prosecutions, make such order touching the enforcing of any such recognisance as shall appear to the Court to be just.

(4) Thereupon the Registrar shall copy on a roll all forfeitures and sums of money to be paid in lieu or satisfaction of them, or any of them, forfeited at such Criminal Sessions, and shall, within three days after the last day of such Criminal Sessions, send a copy of such roll, with a writ, according to the Form C in the Second Schedule to the Marshal.

Form C.
Second
Schedule.

(5) Such writ shall be the authority to the Marshal for proceeding to the immediate levying and recovering of such forfeitures or sums of money to be paid in lieu or satisfaction of them, or any of them, on the goods and chattels of such several persons, or for taking into custody the bodies of such persons in case sufficient goods and chattels are not found whereon levy can be made for recovery thereof.

(6) Every such person so taken shall be lodged in the Port-of-Spain Prison until the next Criminal Sessions, there to abide the judgment of the Court, unless in the meantime such forfeiture or sum of money is paid.

Power to make
Rules.
Ch. 4:01.

First Schedule.

77. (1) The Rules Committee of the Supreme Court established by the Supreme Court of Judicature Act may, subject to negative resolution of Parliament, make Rules as they see fit for the better carrying into effect the objects of this Act and in particular to make Rules varying or annulling the Rules contained in the First Schedule and to make further Rules with respect to the matters dealt with in those Rules, and those Rules shall have effect subject to any modifications or additions so made.

(2) Any Rules so made shall have effect as if they were contained in an Act and shall come into operation on the day appointed in such Rules or, if no day is so appointed, on the day of their publication in the *Gazette*.

Sections 12
and 77.
[136/1976
45 of 1979
18 of 1994].

Citation.

FIRST SCHEDULE

INDICTMENT RULES

1. These Rules may be cited as the Indictment Rules, and these Rules, together with any Rules made under section 12 of this Act may be cited together by such collective title as may be prescribed by the last mentioned Rules.

Material, etc.,
for indictments.

2. (1) An indictment may be either written or printed, or partly written and partly printed.

(2) Figures and abbreviations may be used in an indictment for expressing anything which is commonly expressed thereby.

Commencement
of the
indictment.
[136/1976].

(3) The commencement of the indictment shall be in the following form:

THE STATE vs A.B.

In the Supreme Court of Trinidad and Tobago

Port-of-Spain [*or San Fernando or Scarborough, as the case may be*].

INDICTMENT BY THE DIRECTOR OF PUBLIC PROSECUTIONS
[*or* INDICTMENT BY C.D. ADMITTED TO PROSECUTE PRIVATELY].

A.B. is charged with the following offence (offences)—

Joining of
charges in one
indictment.
[45 of 1979].

3. Charges for any offences may be joined in the same indictment if those charges are founded on the same facts, or form or are a part of a series of offences of the same or a similar character.

4. (1) A description of the offence charged in an indictment or, where more than one offence is charged in an indictment, of each offence so charged, shall be set out in the indictment in a separate paragraph called a count. Mode in which offences are to be charged.

(2) A count of an indictment shall commence with a statement of the offence charged, called the statement of offence.

(3) The statement of offence shall describe the offence shortly in ordinary language, avoiding as far as possible the use of technical terms, and without necessarily stating all the essential elements of the offence, and, if the offence charged is one created by Act, shall contain a reference to the section of the Act creating the offence.

(4) After the statement of the offence, particulars of such offence shall be set out in ordinary language, in which the use of technical terms shall not be necessary; but where any rule of law or any Act limits the particulars of an offence which are required to be given in an indictment, nothing in this rule shall require any more particulars to be given than those so required.

(5) The forms set out in the Appendix to these Rules, or forms conforming thereto as nearly as may be, shall be used in cases to which they are applicable, and in other cases forms to the like effect or conforming thereto as nearly as may be shall be used, the statement of offence and the particulars of offence being varied according to the circumstances in each case. Appendix.

(6) Where an indictment contains more than one count, the counts shall be numbered consecutively.

5. (1) Where a written law constituting an offence states the offence to be the doing or the omission to do any one of any different acts in the alternative, or the doing or the omission to do any act in any one of any different capacities, or with any one of any different intentions, or states any part of the offence in the alternative, the acts, omissions, capacities or intentions, or other matters stated in the alternative in the written law, may be stated in the alternative in the count charging the offence. Provisions as to statutory offences.

(2) It shall not be necessary, in any count charging a statutory offence, to negative any exception or exemption from or qualification to the operation of the Act creating the offence.

6. (1) The description of property in a count in an indictment shall be in ordinary language and such as to indicate with reasonable clearness the property referred to, and if the property is so described it shall not be necessary (except when required for the purpose of describing an offence depending on any special ownership of property or special value of property) to name the person to whom the property belongs or the value of the property. Description of property.

(2) Where property is vested in more than one person, and the owners of the property are referred to in an indictment, it shall be sufficient to describe

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MINISTRY OF THE ATTORNEY GENERAL AND LEGAL AFFAIRS

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the property as owned by one of those persons by name with others, and if the persons owning the property are a body of persons with a collective name, such as “Inhabitants”, “Trustees”, “Commissioners”, or “Club” or other such name, it shall be sufficient to use the collective name without naming any individual.

Description of persons.

7. The description or designation in an indictment of the accused person, or of any other person to whom reference is made therein, shall be such as is reasonably sufficient to identify him, without necessarily stating his correct name, or his abode, style, degree, or occupation; and if, owing to the name of the person not being known, or for any other reason, it is impracticable to give such a description or designation, such description or designation shall be given as is reasonably practicable in the circumstances, or such person may be described as “a person unknown”.

Description of document.

8. Where it is necessary to refer to any document or instrument in an indictment, it shall be sufficient to describe it by any name or designation by which it is usually known, or by the purport thereof, without setting out any copy thereof.

General rule as to description.

9. Subject to any other provisions of these Rules, it shall be sufficient to describe any place, time, thing, matter, act or omission whatsoever to which it is necessary to refer in any indictment, in ordinary language in such a manner as to indicate with reasonable clearness the place, time, thing, matter, act, or omission referred to.

Statement of intent.

10. It shall not be necessary in stating any intent to defraud, deceive, or injure to state an intent to defraud, deceive or injure any particular person where the written law creating the offence does not make an intent to defraud, deceive or injure a particular person an essential ingredient of the offence.

Charge of previous convictions, etc.

11. Any charge of a previous conviction of an offence shall be charged at the end of the indictment by means of a statement that the person accused has been previously convicted of that offence at a certain time and place without stating the particulars of the offence.

Signing indictments. [136/1976].

12. (1) All indictments shall, subject to the provisions appearing below, be signed by the Director of Public Prosecutions.

(2) In cases in which, under any existing Act, any party injured or complaining is admitted to prosecute privately, the indictment shall be signed by such party and not by the Director of Public Prosecutions.

(3) The Registrar shall not receive an indictment from any private prosecutor unless the indictment has thereon endorsed a certificate by the Director of Public Prosecutions to the effect that he has seen such indictment and declines to prosecute at the public instance for the offence therein set forth,

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UPDATED TO 31ST DECEMBER 2016

and unless such prosecutor has entered into a recognisance in the sum of two thousand dollars, together with one surety to be approved by the Registrar in the like sum, to prosecute the said indictment to conclusion at the time at which the accused shall be required to appear, and pay such costs as may be ordered by the Court.

13. Every indictment shall be filed in Court.

Indictments to
be filed in Court.

14. (1) A copy of the indictment shall be served upon every accused person named therein four clear days at least before such person is required to plead thereto.

Copy of
indictment.
[18 of 1994].

(2) Where the accused person has been released on bail, the Registrar shall serve such copy by delivering the same at the place named in such person's recognisance of bail for the acceptance of such service, either to the accused person personally or, if he is not there, to any person willing to accept such service on behalf of such accused person or, if no such person can be found, by leaving the same between the hours of nine o'clock in the morning and four o'clock in the afternoon at the place mentioned above.

(3) Where the accused person is a prisoner in the Port-of-Spain Prison, the Registrar shall serve such copy by delivering the same to the Keeper of the Port-of-Spain Prison, who shall thereupon cause the same to be delivered to such prisoner.

(4) If, upon the arraignment of any accused person, it appears to the Court that such copy was not served according to this Act, such accused person shall, on application by himself or on his behalf, be entitled as of right to have the trial of the indictment postponed to the next Criminal Session held in the place in which he is arraigned.

15. Except as in these Rules otherwise provided, these Rules shall apply to any plea, replication or other pleading relating thereto.

Application to
informations,
and other
pleading.
[45 of 1979].

Rule 4.
[45 of 1979].

APPENDIX

FORMS OF INDICTMENT

FORM 1

STATEMENT OF OFFENCE

Uttering counterfeit coin, contrary to section 10 of the Coinage Offences Act.

PARTICULARS OF OFFENCE

A.B., on the day of, 20.....,
at in the County of, uttered
a counterfeit 25 cents coin, knowing the same to be counterfeit.

FORM 2

STATEMENT OF OFFENCE

Uttering counterfeit coin, contrary to section 13 of the Coinage Offences Act.

PARTICULARS OF OFFENCE

A.B., on the day of, 20.....,
at in the County of,
uttered a counterfeit fifty cents coin, knowing the same to be counterfeit.

A.B. has been previously convicted of a misdemeanor under section 13 of the
Coinage Offences Act, on the day of....., 20....., at
.....

FORM 3

STATEMENT OF OFFENCE

Murder.

PARTICULARS OF OFFENCE

A.B. on the day of, 20....., in the County of
....., murdered J.S.

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UPDATED TO 31ST DECEMBER 2016

FORM 4

STATEMENT OF OFFENCE

Assisting Offender, contrary to section 5(1) of the Criminal Law Act.

PARTICULARS OF OFFENCE

A.B., on the day of, 20.....,

after C.D. had committed an arrestable offence, namely, the theft of coat, the property of E.F. and bearing the name of the manufacturer

knowing or believing that the said C.D. had committed the said offence or some other arrestable offence, without lawful authority or excuse removed from the said coat the name of the said manufacturer, with intent to impede the apprehension or prosecution of the said C.D.

FORM 5

STATEMENT OF OFFENCE

Manslaughter.

PARTICULARS OF OFFENCE

A.B., on the day of, 20.....,

in the County of, unlawfully killed J.S.

FORM 6

STATEMENT OF OFFENCE

Rape.

PARTICULARS OF OFFENCE

A.B., on the day of, 20.....,

in the County of, had carnal knowledge of E.F. without her consent.

FORM 7

FIRST COUNT

STATEMENT OF OFFENCE

Wounding with intent, contrary to section 12 of the Offences Against the Person Act.

PARTICULARS OF OFFENCE

A.B., on the day of, 20.....,
in the County of
wounded C.D., with intent to do him grievous bodily harm [*or to maim, disfigure, or disable him, or to resist the lawful apprehension of him the said A.B.*].

SECOND COUNT

STATEMENT OF OFFENCE

Wounding, contrary to section 14 of the Offences Against the Person Act.

PARTICULARS OF OFFENCE

A.B., on the day of, 20.....,
in the County of, maliciously wounded C.D.

FORM 8

STATEMENT OF OFFENCE

Conspiracy to incite women to procure their own miscarriage.

PARTICULARS OF OFFENCE

A.B., and C.D., on divers days between the day of
..... and the day of
....., 20....., in the County of,
conspired together and with other persons unknown to incite women being with child to administer to themselves noxious things with intent to procure their own miscarriage.

FORM 9

STATEMENT OF OFFENCE

Libel.

PARTICULARS OF OFFENCE

A.B., on the day of, 20.....,
in the County of
published a defamatory libel concerning E.F., in the form of a letter [book,
pamphlet, picture, *or as the case may be*].
[Innuendo should be stated where necessary].

FORM 10

FIRST COUNT

STATEMENT OF OFFENCE

Publishing obscene libel.

PARTICULARS OF OFFENCE

E.M., on the day of, 20.....,
in the County of, sold, uttered and
published and caused or procured to be sold, uttered, and published an obscene
libel the particulars of which are deposited with this indictment.
*[Particulars to specify pages and lines complained of where necessary, as in
a book].*

SECOND COUNT

STATEMENT OF OFFENCE

Procuring obscene libel [*or thing*] with intent to sell or publish.

PARTICULARS OF OFFENCE

E.M., on the day of, 20.....,
in the County of, procured an
obscene libel [*or thing*], the particulars of which are deposited with this
indictment, with intent to sell, utter or publish such obscene libel [*or thing*].

FORM 11

STATEMENT OF OFFENCE

Libel.

PARTICULARS OF OFFENCE

A.B., on the day of, 20.....,
in the County of, published a defamatory libel concerning W.Y., in the form of a letter addressed to J.B., which said letter contained the following defamatory matters concerning the said W.Y.:—

1. Do you know that about the year 20....., your friend W.Y. was in the employ of L. and J., and that his accounts were found to be all wrong? (meaning thereby that W.Y. was guilty of acts of dishonesty and falsification of accounts whilst he was in the employ of L. and J.).

2. As soon as his defalcations were discovered and a warrant was applied for he fled to (meaning thereby that the said W.Y. was a fugitive from justice).

3. Sometime after this he appears to have returned to, for he was found to be keeping a disorderly house in the (meaning thereby that the said W.Y. had committed the criminal offence of keeping a disorderly house).

[See Form 12 for plea of justification to Form 11].

FORM 12

**PLEA OF JUSTIFICATION OF A.B. IN ANSWER TO THE
INDICTMENT AGAINST HIM FOR LIBEL**

[See Form 11]

A.B. says he is not guilty, and for a further plea he says that all the defamatory matters alleged in the indictment are true.

PARTICULARS

1. On the day of, 20.....,
W.Y. received the sum of \$..... from T.S., and on the
..... day of, 20, W.Y. received the sum of
\$ from C.F., and the sum of
\$ from W.D. on behalf of his employers, L. and J., which
he fraudulently omitted to enter in their books or to account for in any way.

2. On the day of, 20, soon after W.Y.'s
defalcations were discovered and a warrant was applied for against him upon
charges of embezzling his employers' money and falsifying their books, W.Y.
left on a ship called the *Eagle* bound for
.....

3. On the 19th September and on other days in the year 20....., W.Y. kept a
house at for the purpose of betting,
contrary to
A.B. says it was for the public benefit that the defamatory matters charged in
the said indictment should be published by reason of the fact that W.Y. was at
the time of the publication thereof a candidate for the public office of
Councillor of the Borough of

[For Replication to Form 12, see Form 13]

FORM 13

**REPLICATION TO THE PLEA OF
JUSTIFICATION OF A.B.**

[See Form 12]

H.S., Registrar of the Supreme Court, joins issue on behalf of the State.

FORM 14

STATEMENT OF OFFENCE

Larceny, contrary to section 18 of the Larceny Act.

PARTICULARS OF OFFENCE

A.B., on the day of, 20.....,
in the County of, being clerk or servant to
M.N., stole from the said M.N. ten yards of cloth.

FORM 15

STATEMENT OF OFFENCE

Robbery with violence, contrary to section 24 of the Larceny Act.

PARTICULARS OF OFFENCE

A.B., on the day of, 20.....,
in the County of, robbed C.D. of a
watch, and at the time of or immediately before or immediately after such
robbery did use personal violence to the said C.D.

FORM 16

FIRST COUNT

STATEMENT OF OFFENCE

Larceny.

PARTICULARS OF OFFENCE

A.B., on the day of, 20.....,
in the County of, stole a bag, the property of C.D.

SECOND COUNT

STATEMENT OF OFFENCE

Receiving stolen goods, contrary to section 34 of the Larceny Act.

PARTICULARS OF OFFENCE

A.B., on the day of, 20.....,
in the County of, did receive a
bag, the property of C.D., knowing the same to have been stolen.

A.B. has been previously convicted of arrestable offence, to wit, burglary, on
the day of, 20, at

FORM 17

STATEMENT OF OFFENCE

Breaking into dwelling house and larceny, contrary to section 27 of the
Larceny Act.

PARTICULARS OF OFFENCE

A.B., on the day of, 20, in the County of
....., did break and enter the dwelling house of C.D.
with intent to steal therein, and did steal therein one watch, the property of S.T.

FORM 18

STATEMENT OF OFFENCE

Sending threatening letter, contrary to section 31 of the Larceny Act.

PARTICULARS OF OFFENCE

A.B., on the day of, 20.....,

in the County of, sent, delivered, or uttered to or caused to be received by C.D., a letter accusing or threatening to accuse the said C.D., of an infamous crime with intent to extort money from the said C.D.

FORM 19

STATEMENT OF OFFENCE

Obtaining goods by false pretences, contrary to section 34 of the Larceny Act.

PARTICULARS OF OFFENCE

A.B., on the day of, 20.....,

in the County of, with intent to defraud, obtained from S.P. five yards of cloth by falsely pretending that he, the said A.B., was a servant to J.S., and that he, the said A.B., had then been sent by the said J.S. to S.P. for the said cloth, and that he, the said A.B., was then authorised by the said J.S. to receive the said cloth on behalf of the said J.S.

FORM 20

STATEMENT OF OFFENCE

Conspiracy to defraud.

PARTICULARS OF OFFENCE

A.B. and C.D. on divers days between the day of and the

..... day of, 20....., in the County of, conspired together and with other persons unknown to defraud such persons as should thereafter be induced to part with money to the said A.B. and C.D., by false representations that A.B. and C.D. were then carrying on a genuine business

as jewellers at, and that they were then willing and prepared to supply articles of jewellery to such persons.

FORM 21

FIRST COUNT

STATEMENT OF OFFENCE

Falsification of accounts, contrary to section 9 of the Criminal Offences Act.

PARTICULARS OF OFFENCE

A.B., on the day of, 20.....,
in the County of, being clerk or servant to
C.D., with intent to defraud, made or concurred in making a false entry in a
cash book belonging to the said C.D., his employer, purporting to show that
on
the said day \$..... had been paid to L.M.

SECOND COUNT

STATEMENT OF OFFENCE

Same as First Count.

PARTICULARS OF OFFENCE

A.B., on the day of, 20.....,
in the County of, being clerk or servant to C.D.,
with intent to defraud omitted or concurred in omitting from or in a cash book
belonging to the said C.D., his employer, a material particular, that is to say, the
receipt on the said day of \$ from H.S.

FORM 22

FIRST COUNT

STATEMENT OF OFFENCE

Forgery, contrary to section 4(1) of the Forgery Act.

PARTICULARS OF OFFENCE

A.B., on the day of, 20.....,

in the County of, with intent to defraud,
forged a certain Will purporting to be the Will of C.D.

SECOND COUNT

STATEMENT OF OFFENCE

Uttering forged document, contrary to section 9 of the Forgery Act.

PARTICULARS OF OFFENCE

A. B., on the day of, 20, in the County of,
uttered a certain forged Will purporting to be the Will of C.D., knowing the
same to be forged and with intent to defraud.

FORM 23

FIRST COUNT

STATEMENT OF OFFENCE

Arson, contrary to section 4 of the Malicious Damage Act.

PARTICULARS OF OFFENCE

A.B., on the day of, 20.....,
in the County of, maliciously set fire to a
dwelling house, one F.G. being therein.

SECOND COUNT

STATEMENT OF OFFENCE

Arson, contrary to section 5 of the Malicious Damage Act.

PARTICULARS OF OFFENCE

A.B., on the day of, 20.....,
in the County of,
maliciously set fire to a house with intent to injure or defraud.

FORM 24

STATEMENT OF OFFENCES

A.B., arson, contrary to section 5 of the Malicious Damage Act.

C.D., being aider and abettor to same offence.

PARTICULARS OF OFFENCES

A.B., on the day of, 20.....,
in the County of, maliciously set fire to a house
with intent to injure or defraud.

C.D., on the same day, in the County of,
did counsel, procure, and command the said A.B. to commit the said offence.

FORM 25

STATEMENT OF OFFENCE

Damaging trees, contrary to section 19 of the Malicious Damage Act.

PARTICULARS OF OFFENCE

A.B., on the day of, 20.....,
in the County of, maliciously damaged a
tree there growing.

FORM 26

FIRST COUNT

STATEMENT OF OFFENCE

Offence under section 27 of the Malicious Damage Act.

PARTICULARS OF OFFENCE

A.B., on the day of, 20.....,
in the County of, displaced a sleeper belonging to the
..... Railway with intent to obstruct, upset, overthrow, injure,
or destroy an engine, tender, carriage, or truck using the said railway.

SECOND COUNT

STATEMENT OF OFFENCE

Obstructing railway, contrary to section 29 of the Malicious Damage Act.

PARTICULARS OF OFFENCE

A.B., on the day of, 20.....,
in the County of, by unlawfully displacing a sleeper belonging
to theRailway did obstruct or cause to be obstructed an
engine or carriage using the said railway.

FORM 27

STATEMENT OF OFFENCE

Perjury, contrary to section 4(1) of the Perjury Act.

PARTICULARS OF OFFENCE

A.B., on the day of, 20.....,
in the County of, being a witness upon the trial of an action in the
.....Court, in which onewas
plaintiff, and onewas defendant, knowingly
falsely swore that he saw one M.N., in the street called Frederick Street, Port-
of-Spain, on the day of, 20.....

FORM 28

STATEMENT OF OFFENCE

Obstructing Coroner in the execution of his Duty. (Common Law Offence).

PARTICULARS OF OFFENCE

A.B. and G.C., on the day of, 20....., in
the County of, intending
to prevent the Coroner of from
holding an inquest in the execution of his duty upon view of the dead body of
S.C., who died a violent or an unnatural death or a sudden death of which the
cause was unknown, or intending to obstruct the said Coroner in the
holding of such inquest, did bury the said dead body in a certain place,
to wit

FORM 29

FIRST COUNT

STATEMENT OF OFFENCE

Bankruptcy Offence contrary to section 136 of the Bankruptcy Act.

PARTICULARS OF OFFENCE

A.B., has been adjudged bankrupt, and on the day of, 20....., in the County of did not fully and truly discover to the trustee all his property, and how and to whom and for what consideration and when he had disposed of a piano, part thereof.

SECOND COUNT

STATEMENT OF OFFENCE

Bankruptcy Offence contrary to section 136 of the Bankruptcy Act.

PARTICULARS OF OFFENCE

A.B., has been adjudged bankrupt, and on the day of, 20, in the County of, did not deliver up to the trustee a book called a ledger, relating to his property or affairs.

FORM 30

STATEMENT OF OFFENCES

A.B., undischarged bankrupt obtaining credit, contrary to section 137 of the Bankruptcy Act.

C.D., being aider and abettor to same offence.

PARTICULARS OF OFFENCES

A.B., on the day of, 20....., in the County of, being an undischarged bankrupt, obtained credit to the extent of from H.S. without informing the said H.S. that he then was an undischarged bankrupt.

C.D. at the same time and place did aid, abet, counsel, and procure A.B. to commit the said offence.

SECOND SCHEDULE
WARRANT OF EXECUTION

Section 57.
[136/1976].
Section 57(1).

FORM A

THE REPUBLIC OF TRINIDAD AND TOBAGO

To the Marshal.

GREETING:

Whereas (A.B.), late of
has been indicted for felony and murder by him done and committed, and the
said (A.B.) having been thereupon arraigned before the High Court at its Session
held on the day of in the year of our Lord Two Thousand
and, and having upon such arraignment pleaded NOT GUILTY
(or GUILTY, as the case may be), the said (A.B.) has before the said Court in its
aforesaid Session been tried and in due form of law convicted thereof: And
whereas judgment has been given by the said Court, that the said (A.B.) be
hanged by the neck until he be dead, the execution of which judgment yet remains
to be done, I, President of the Republic of
Trinidad and Tobago, do by these presents require and strictly command you
that upon the day of in the year of our Lord
Two Thousand and between the hours of six in the forenoon and
twelve at noon of the same day, him the said (A.B.) at the Port-of-Spain Prison
to you to be delivered, as by another writ to the Keeper of the said Port-of-
Spain Prison is commanded, into your custody, you then and there receive, and
him in your custody so being you forthwith convey to the usual place of
execution and that you do then and there cause execution to be done upon the
said (A.B.) in your custody so being in all things according to the said
judgment; And this you are by no means to omit at your peril.

Section 57(1).

FORM B

THE REPUBLIC OF TRINIDAD AND TOBAGO

To the Keeper of the Port-of-Spain Prison.

GREETING:

Whereas (A.B.), late of in
Trinidad and Tobago has been indicted for felony and murder by him done and
committed; and the said (A.B.) having been thereupon arraigned before the

High Court at its Session held on the day of in the

year of our Lord Two Thousand and and having upon such arraignment
pleaded NOT GUILTY (or GUILTY, as the case may be), the said (A.B.) has
before the said Court in its aforesaid Session been tried, and in due form of law
convicted thereof: And whereas judgment has been given by the said Court that
the said (A.B.) be hanged by the neck until he be dead, the execution of which

judgment yet remains to be done, I,..... President
of the Republic of Trinidad and Tobago, do therefore by these presents require

and strictly command you that upon the day of

..... in the year of our Lord Two Thousand and
between the hours of six and eleven in the forenoon of the same day him the
said (A.B.) at the Port-of-Spain Prison aforesaid to the Marshal you then
deliver, which said Marshal, by another writ to him directed, is commanded
then and there to receive the said (A.B.) that execution of the aforesaid
judgment may be done in manner and form as to the said Marshal is by the said
other writ commanded: And this you are by no means to omit at your peril.

FORM C

Section 76(4).

THE REPUBLIC OF TRINIDAD AND TOBAGO

To the Marshal.

GREETING:

You are hereby required and commanded, as you regard yourself and all fines, that of the goods and chattels of all and singular the persons mentioned in the list to this writ annexed you cause to be levied, all and singular the debts and sums of money upon them severally imposed and charged and mentioned in the said list, so that the money may be ready for payment at the next Criminal Sessions of the High Court, to be paid over in such manner as the said Court may direct; and if any of the said several debts and sums of money cannot be levied by reason of no goods or chattels being to be found belonging to the parties, then in all cases that you take the bodies of the parties refusing to pay the aforesaid debts and sums of money and lodge them in the Port-of-Spain Prison there to await the decision of the said Court at its next Session: And have you there then this writ.

Witness His Honour, Chief Justice of Trinidad and

Tobago at Port-of-Spain, this day of 20.....

Registrar.

SUBSIDIARY LEGISLATION

203/1980.

CRIMINAL PROCEDURE (CHANGE OF VENUE) RULES

made under section 77

Citation.

1. These Rules may be cited as the Criminal Procedure (Change of Venue) Rules.

Application for
change of
venue.

2. (1) Without prejudice to the operation of section 3(4) of the Act, an application for an order under that subsection for the transfer of a trial may be made by motion to the High Court, except in vacation when it may be made by summons to a Judge in Chambers.

(2) An application under subrule (1) must be supported by an affidavit showing the grounds on which the application is made.

(3) The motion or summons together with a copy of the affidavit must, at least eight clear days before the day named in the notice or summons for the hearing, be served, if the applicant is the Director of Public Prosecutions, on the accused and, if the applicant is an accused person, on the Director of Public Prosecutions and all other persons jointly accused with the applicant.

(4) The provisions of Orders 7 and 8 of the Rules of the Supreme Court 1975 apply *mutatis mutandis* to applications made under this rule.

CRIMINAL PROCEDURE RULES

ARRANGEMENT OF RULES

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ARRANGEMENT OF RULES—*Continued*

RULE

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Permitted place of service.
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23. Revocation of the Criminal Procedure Rules, 2013.

SCHEDULE.

CRIMINAL PROCEDURE RULES

55/2016.

MADE BY THE RULES COMMITTEE UNDER SECTION 78(A) OF THE SUPREME COURT OF JUDICATURE ACT, CHAP. 4:01; SECTION 41 OF THE JURY ACT, CHAP. 6:53; SECTION 14(C) OF THE EVIDENCE ACT, CHAP. 7:01; SECTION 16B OF THE INDICTABLE OFFENCES (PRELIMINARY ENQUIRY) ACT, CHAP. 12:01; SECTION 77(1) OF THE CRIMINAL PROCEDURE ACT, CHAP. 12:02 AND SUBJECT TO NEGATIVE RESOLUTION OF PARLIAMENT

1. Citation and Commencement

1.1 These Rules may be cited as the Criminal Procedure Rules.

1.2 These Rules shall come into force on 18th April 2017.

210/2016.

2. Interpretation

2.1 In these Rules, unless the context otherwise requires—

“accused” means a person against whom a complaint is made, information is laid, or an indictment is preferred and includes a defendant;

“authorised officer” means an officer so designated by virtue of section 43(3) of the Summary Courts Act;

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“complainant” includes a person who files a complaint in relation to either an indictable or summary offence;

“Court” means a Summary Court or the High Court or a Magistrate or a Judge of the High Court or Master of the High Court;

“Court office” means—

(a) the place where documents are to be filed and includes a registry or sub-registry; and

(b) the place where work of a formal or administrative nature is to be dealt with by members of Court staff;

“Court officer” means the appropriate member of the staff at a Court office;

“filing”, in relation to a document, means delivering, sending it by facsimile transmission or posting it to the appropriate Court office and is not completed until the document is received at that office;

“Keeper” means the officer having the charge of any prison in Trinidad and Tobago;

“participant” means anyone involved in any way with the conduct of a criminal case;

“party” includes both the party to the criminal case and an Attorney-at-law on record for that party unless any rule specifies or it is clear from the context that it relates to the accused or to the Attorney-at-law.

3. The overriding objective

3.1 The overriding objective of these Rules is that criminal cases be dealt with justly.

3.2 It is the duty of the court and all parties and participants, at every stage of proceedings where the context so requires, to further the overriding objective.

3.3 Dealing with a criminal case justly includes—

- (a) dealing with the prosecution and the defence fairly;
- (b) ensuring the protection of all the rights of an accused person;
- (c) considering the interests of the accused, witnesses, victims and jurors and keeping them informed of the progress of the case, as necessary;
- (d) dealing with the case efficiently and expeditiously;
- (e) ensuring that appropriate information is available to the Court particularly when bail or sentence is under consideration; and
- (f) dealing with the case in ways that take into account—
 - (i) the gravity of the offence;
 - (ii) the complexity of what is in issue;
 - (iii) the consequences for an accused and others who may be affected;
 - (iv) the needs of other cases; and
 - (v) allotting the case an appropriate share of the court’s resources, while taking into account the need to allot resources to other cases.

3.4 The Court must seek to give effect to the overriding objective when it—

- (a) exercises any discretion given to it by these Rules; or
- (b) interprets the meaning of any rule or practice direction.

3.5 (1) Each party shall—

- (a) actively assist the Court in fulfilling its duty under rule 3.1 whether or not the Court has made a direction; and
- (b) apply for a direction if needed.

- (2) It is the duty of the participants in a criminal case to—
- (a) prepare and conduct the case in accordance with the overriding objective;
 - (b) comply with these Rules, Practice Directions, orders and directions made or given by the Court; and
 - (c) immediately inform the Court and all parties of any significant failure (whether or not that participant is responsible for that failure) to take any procedural step required by these Rules, Practice Directions or any orders or directions made by the Court.
- (3) In fulfilling his duty under this rule each party shall—
- (a) comply with the Rules, Practice Directions, orders and directions made or given by the Court;
 - (b) take every reasonable step to make sure its witnesses attend when needed;
 - (c) make appropriate arrangements to present any written or other material; and
 - (d) promptly inform the Court and the other parties of anything that may—
 - (i) affect the date or duration of the trial; or
 - (ii) significantly affect the progress of the case in any other way.

3.6 Under these Rules, unless the context makes it clear that something different is meant, anything that a party may or shall do, may be done—

- (a) by an Attorney-at-law on that party's behalf;
- (b) by a person with the company's written authority, where that party is a company; and
- (c) with the help of a parent, guardian or other adult as the Court may determine, where that party is an accused—
 - (i) who is under 18 years; or
 - (ii) whose understanding of what the case involves is limited.

4. When these Rules apply

4.1 These Rules, unless the context otherwise requires, apply in all criminal cases in the High Court and Summary Courts.

5. Starting a prosecution in the Summary Court

5.1 This Part applies to a Summary Court where—

- (a) proceedings have been instituted against an accused in accordance with Part III of the Summary Courts Act or the Indictable Offences (Preliminary Enquiry) Act; or

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- (b) a person who is in custody appears before a Magistrate charged with an offence.

Complaint/Information

- 5.2 (1) A complainant who wants the court to issue a summons must—
- (a) file a complaint, lay or prefer an information in writing in the Court office; or
- (b) unless any other written law otherwise provides, present an information orally to the court, with a written record of the allegation that it contains.
- (2) A complainant who wants the Court to issue a warrant must—
- (a) file a complaint, lay or prefer on the Court office—
- (i) an information in writing; or
- (ii) a copy of a complaint that has been issued; or
- (b) present to the Court either the complaint or the information.
- (3) A single document may contain—
- (a) more than one information; or
- (b) more than one complaint.
- (4) Where an offence can be tried only in the Summary Court, then unless any other written law otherwise provides—
- (a) a complainant must lay or prefer an information before the Court officer or present it to the court; or
- (b) a complainant must file a complaint or information in the Court office,
- not more than 6 months after the offence alleged.
- (5) Where an offence can be tried in the High Court then—
- (a) a complainant must lay or prefer an information before the Court office or present it to the Court; or
- (b) a complainant must file a complaint within any time limit that applies to that offence.

Allegation of offence in complaint/information

- 5.3 (1) An allegation of an offence in an information or a complaint or charge must contain—
- (a) a statement of the offence that—
- (i) describes the offence in ordinary language; and
- (ii) identifies any written law that creates it; and
- (b) such particulars of the conduct constituting the commission of the offence so as to make clear what the complainant alleges against the accused.

(2) More than one incident of the commission of the offence may be included in the allegation if those incidents, taken together, amount to a course of conduct having regard to the time, place or purpose of commission.

Summons/warrant

5.4 (1) The Court may issue or withdraw a summons—

- (a) without giving the parties an opportunity to make representations; and
- (b) without a hearing, or at a hearing in public or in private.

(2) The Court may issue or withdraw a warrant—

- (a) without giving the parties an opportunity to make representations; and
- (b) without a hearing, or at a hearing in public or in private.

(3) Where appropriate, the Court may inform such parties and participants that it has done so as the Court may deem necessary.

(4) A summons or warrant may be issued in respect of more than one offence.

(5) A summons must—

- (a) contain notice of when and where the accused is required to attend the Court;
- (b) specify each offence in respect of which it is issued; and
- (c) identify—
 - (i) the Court that issued it, unless that is otherwise recorded by the Court officer; and
 - (ii) the Court office for the Court that issued it.

(6) A summons may be contained in the same document as information or must be accompanied by the complaint or information.

(7) Where the Court issues a summons—

- (a) the complainant must—
 - (i) serve it on the accused; and
 - (ii) notify the authorised officer; or
- (b) the authorised officer must—
 - (i) serve it on the accused; and
 - (ii) notify the complainant.

(8) Unless it would be inconsistent with other legislation, a replacement summons may be issued without a fresh information or complaint where the one replaced—

- (a) was served by leaving or posting it under rule 18.4 (documents that must be served only by handing them over, leaving or posting them); but

(b) is shown not to have been received by the addressee.

(9) A summons issued to an accused under 18 years of age may require that accused's parent or guardian to attend the Court with the accused, or a separate summons may be issued for that purpose.

(10) A summons may be issued to secure the attendance of the complainant, notwithstanding that the Court has received either a reasonable excuse for non-attendance of the complainant or other sufficient reason and has adjourned the hearing.

6. Bail Hearings before the Magistrate

6.1 In the exercise of the power to remand the accused into custody for the purpose of considering bail, the Magistrate may grant a single adjournment for a period not exceeding two days.

7. Initial details of the prosecution case in Summary Courts

When this Part applies

7.1 This Part applies in the Summary Court in criminal proceedings.

Providing initial details of the prosecution case

7.2 (1) The complainant must serve initial details of the prosecution case on the Court officer—

- (a) as soon as practicable; and
- (b) in any event, no later than the commencement of the first hearing.

(2) Whether or not the accused person requests those details, the complainant must serve them on the accused or his Attorney-at-law—

- (a) as soon as practicable; and
- (b) in any event, no later than the commencement of the first hearing.

Content of initial details

7.3 (1) Initial details of the prosecution case must include—

- (a) a summary of the evidence on which that case will be based;
- (b) any document or extract setting out facts or other matters on which that case will be based; or
- (c) any combination of such a summary, statement, document, extract or criminal record, if any.

(2) A failure to comply with the requirements of subrule (1), may lead to comments being made by the Court.

8. Case management: The duty of the Court

8.1 (1) This Part applies to both the High Court and Summary Court in criminal proceedings.

(2) The Court shall further the overriding objective by actively managing the case.

8.2 Active case management includes—

- (a) the early identification of the real issues, which includes—
 - (i) the identification of all possible legal issues;
 - (ii) identification of the nature of the defence; and
 - (iii) enquiring whether the defence has taken written instructions;
- (b) the early identification of the needs of witnesses or accused, including special measures for testimony including interpretation and translation services;
- (c) achieving certainty as to what shall be done, by whom, and when, in particular, by the early setting of a timetable for the progress of the case;
- (d) monitoring the progress of the case and compliance with directions;
- (e) ensuring that evidence, whether disputed or not, is presented in the shortest and clearest way;
- (f) discouraging delay, dealing with as many aspects of the case as possible on the same occasion, and avoiding unnecessary hearings;
- (g) encouraging the participants to co-operate in the progression of the case;
- (h) making use of technology;
- (i) in the case of a child or young person appearing before the court, ensuring that the child or young person has legal representation as soon as possible; and
- (j) any other matter the court deems necessary.

8.3 The Court shall actively manage the case by giving any direction appropriate to the needs of that case as early as possible.

9. Case progression officers and their duties

9.1 (1) At the commencement of proceedings each party must, unless the Court otherwise directs—

- (a) specify a person responsible for progressing that case; and
- (b) inform other parties and the Court who that person is and how to contact that person.

(2) In fulfilling its duty under rule 3.2, the court must, where appropriate—

- (a) nominate a court officer responsible for progressing the case; and
- (b) ensure the parties know who that person is and how to contact him.

(3) A person nominated under this rule means a case progression officer.

(4) A case progression officer must—

- (a) monitor compliance with directions;
- (b) ensure that the court is kept informed of events that may affect the progress of that case;
- (c) ensure that he can be contacted promptly about the case during ordinary business hours;
- (d) act promptly and reasonably in response to communications about the case; and
- (e) if he will be unavailable, appoint a substitute to fulfil his duties and inform the other case progression officers.

10. The Court's case management powers

10.1 (1) In fulfilling its duty under rule 3.2 the Court may give any direction and take any step to actively manage a case.

(2) In particular, the court may—

- (a) give a direction on its own initiative or on application by a party;
- (b) ask or allow a party to propose a direction;
- (c) for the purpose of giving directions, receive applications and representations by letter, by telephone or by any other means of electronic communication, and conduct a hearing by such means;
- (d) fix, postpone, bring forward, extend, cancel or adjourn a hearing;
- (e) give directions without a hearing;
- (f) shorten or extend (even after it has expired) a time limit fixed by a direction;
- (g) require that issues in the case should be—
 - (i) identified in writing; or
 - (ii) determined separately, and decide in what order they will be determined;

- (h) require parties to file in Court written submissions, including a no case submission by the defence and reply by the prosecution and serve such submissions and reply on a date or within a period directed by the Court; or
- (i) specify the consequences of failing to comply with a direction.

10.2 Any power to give a direction under this Part includes a power to vary or revoke that direction.

- 10.3 If a party fails to comply with a rule or a direction, the Court may—
- (a) fix, postpone, bring forward, extend, cancel or adjourn a hearing; or
 - (b) impose such other sanction as may be appropriate.

11. Application to vary a direction

- 11.1 (1) A party may apply to vary a direction if—
- (a) the Court gave it without a hearing;
 - (b) the Court gave it at a hearing in his absence; or
 - (c) circumstances have changed.
- (2) A party who applies to vary a direction must—
- (a) apply as soon as practicable after he becomes aware of the grounds for doing so; and
 - (b) give as much notice to the other parties as the nature and urgency of his application permits.

12. Agreement to vary a time limit fixed by a direction—

12.1 (1) The parties may agree to vary a time limit fixed by a direction, but only if—

- (a) the variation will not—
 - (i) affect the date of any hearing that has been fixed; or
 - (ii) significantly affect the progress of the case in any other way;
- (b) the court has not prohibited variation by agreement; and
- (c) the court's case progression officer is promptly informed.

(2) The case progression officer must refer the agreement to the Court if he doubts the condition in subrule (1)(a) is satisfied.

13. Case preparation and progression

13.1 (1) At every hearing, if a case cannot be concluded there and then, the Court may give directions so that it can be concluded at the next hearing, or as soon as possible after that.

- (2) At every hearing the Court must, where relevant—
- (a) if the accused is absent, decide whether to proceed nonetheless;
 - (b) take the accused's plea (unless already done) or if no plea can be taken, then ascertain whether the accused is likely to plead guilty or not guilty;
 - (c) set, follow or revise a timetable for the progress of the case, which may include a timetable for any hearing including the trial;
 - (d) in giving directions, ensure continuity in relation to the Court and to the parties' representatives where that is appropriate and practicable; and
 - (e) where a direction has not been complied with, enquire into the reasons for non-compliance, identify who was responsible, and take appropriate action.

(3) In order to prepare for the hearing, the Court must take every reasonable step—

- (a) to encourage and to facilitate the attendance of witnesses when they are needed; and
- (b) to facilitate the participation of any person, including the accused.

14. Disclosure of material

14.1 Directions given by the Court pursuant to rule 10 should include—

- (a) fixing a date by which the prosecution must disclose to the accused all the evidence they intend to rely upon at trial;
- (b) fixing a date by which the prosecution must disclose any material in its possession that they do not intend to use at trial which materially weakens the prosecution case or assists the accused; and
- (c) fixing a date by which the prosecution must confirm if any material in its possession that they do not intend to use at trial, which materially weakens its case or assists the accused, has been served on the accused.

14.2 (1) The prosecution shall disclose material under rule 14.1(b), unless the Magistrate or Judge orders that such material should not be disclosed in the public interest.

(2) Any application for an order under subrule (1) may be made with or without notice to the accused depending on the sensitivity of the material concerned.

(3) An accused person or his Attorney-at-law may make an application to the Court to permit the accused and his Attorney-at-law to inspect and copy relevant prosecution material if not made available under rule 14.1(b).

15. Notice of alibi

15.1 Where the accused intends to rely on an alibi at his trial and he has not provided particulars to the Court in accordance with section 16A of the Indictable Offences (Preliminary Enquiry) Act, he may give those particulars in writing to the Director of Public Prosecutions as set out in Form 1 of the Schedule.

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Form 1.
Schedule.

16. Trial management

16.1 In order to manage a trial, the court—

- (a) must establish the disputed issues with the active assistance of the parties;
- (b) must consider setting a timetable that takes account of the disputed issues and any timetable proposed by a party;
- (c) may require a party to identify either orally or in writing—
 - (i) which witnesses that party wants to give evidence in person;
 - (ii) the order in which its witnesses are to give evidence;
 - (iii) whether that party requires an order compelling the attendance of a witness;
 - (iv) what arrangements or special measures are desirable to facilitate the giving of evidence by a witness;
 - (v) what arrangements are desirable to facilitate the participation of any other person, including the accused;
 - (vi) what written or other evidence that party intends to introduce;
 - (vii) what facts and evidence can be agreed between the parties;
 - (viii) what other material, if any, that person intends to make available to the Court in the presentation of the case;
 - (ix) whether that party intends to raise any point of law that could affect the conduct of the trial;
 - (x) set a timetable for the service of written submissions and lists of authorities that the party intends to rely on; and
 - (xi) the relevant disclosure a party requests to be made;

(d) may limit—

(i) the examination, cross-examination or re-examination of a witness; and

(ii) the duration of any stage of the hearing; and

(e) may make a direction that the case be heard in another court.

16.2 The Court may require the prosecutor and the Attorney-at-law for the accused to file a certificate of readiness as set out in Form 2 and Form 3 respectively, of the Schedule, before trial.

Form 2.
Form 3.
Schedule.

16.3 In matters before the High Court, the court will require a completed hearing questionnaire as set out in Form 4 of the Schedule, to be filed by the parties before the matter is listed for a case management hearing.

Form 4.
Schedule.

17. Trial and sentence in the Summary Court

When this Part applies

17.1 This Part applies in a Summary Court where—

(a) the Court tries a case or the accused is found guilty; or

(c) the accused pleads guilty.

17.2 (1) Where this Part applies—

(a) the general rule is that the hearing must be in public; but

(b) the Court may exercise any power it has to—

(i) impose reporting restrictions;

(ii) withhold information from the public; or

(iii) order a hearing in private; and

(c) unless the Court otherwise directs, only the following may attend a hearing in a Court where a person under the age of 18 years is tried:

(i) the parties and their legal representatives;

(ii) an accused's parents, guardian or other supporting adult;

(iii) a witness; and

(iv) anyone else directly concerned in the case.

(2) Unless already done, the Court must—

(a) read the allegation of the offence to the accused;

(b) explain, in terms the accused can understand (with help, if necessary)—

(i) the allegation; and

(ii) what the procedure at the hearing will be;

- (c) ask whether the accused has been advised that he can request a sentence indication for a guilty plea;
- (d) ask whether the accused pleads guilty or not guilty; and
- (e) take the accused's plea.

Procedure on plea of not guilty

17.3 (1) This rule applies—

- (a) if the accused has—
 - (i) entered a plea of not guilty; or
 - (ii) not entered a plea; or
- (b) if, in either case, it appears to the Court that there may be grounds for making an order pursuant to section 13 of the Mental Health Act without convicting the accused.

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(2) If a not guilty plea was taken on a previous occasion, the Court must ask the accused to confirm that plea.

(3) The prosecution—

- (a) may summarise its case, identifying the relevant law and facts; and
- (b) must introduce the evidence on which it relies.

(4) At the conclusion of the case for the prosecution, on the application of the accused or on its own initiative, the Court—

- (a) may acquit on the ground that a *prima facie* case has not been made out and the prosecution evidence is insufficient for any reasonable Court properly to convict, but must not do so unless the prosecution has had an opportunity to make representations; and
- (b) must inform the accused or his Attorney-at-law of his right to address the Court at the commencement or conclusion of his case.

(5) The Court must explain—

- (a) in terms the accused can understand (with help, if necessary) of the right to give evidence; and
- (b) that the accused may introduce evidence.

(6) A party may introduce further evidence if it is then admissible.

(7) Where a party wants to introduce evidence or make representations after that party's opportunity to do so has passed, the Court—

- (a) may refuse to receive any such evidence or representations; and
- (b) must not receive any such evidence or representations after it has announced its verdict.

(8) Where the Summary Court convicts or acquits the accused, it must give sufficient reasons for its decision.

Evidence of a witness in person

17.4 (1) This rule applies where a party wants to introduce evidence by calling a witness to give that evidence in person.

(2) Unless the Court otherwise directs—

(a) a witness waiting to give evidence must not wait in the courtroom, unless that witness is—

- (i) a party; or
- (ii) an expert witness;

(b) a witness who gives evidence in the courtroom must do so from the place provided for that purpose or in some other place as directed by the Court; and

(c) a witness' address must not be given unless it is relevant to an issue in the case.

(3) Unless any written law otherwise provides, before giving evidence, a witness must take an oath or affirm.

(4) The examination of a witness must be done in the following sequence:

(a) the party who calls a witness must ask questions in examination-in-chief;

(b) every other party may ask questions in cross-examination; and

(c) the party who called the witness may ask questions in re-examination,

and the Court has a discretion to allow questions outside of the above sequence.

(5) The Court may—

(a) ask a witness questions for the purpose of clarification; and

(b) where the accused is not represented, may ask any question necessary in the interest of the accused.

Evidence of a witness in writing

17.5 (1) This rule applies where a party wants to introduce in evidence the written statement of a witness.

(2) If the Court admits such evidence—

(a) each relevant part of the statement must be read or summarised aloud by the party introducing the evidence; or

(b) the Court may read the statement and its gist must be summarised aloud.

(3) A written statement of a witness may not contain the address of the witness.

Evidence by admission

17.6 (1) This rule applies where—

- (a) a party introduces in evidence a fact admitted by another party; or
- (b) parties jointly admit a fact.

(2) Unless the Court otherwise directs, a written record must be made of the admission.

Procedure on plea of guilty

17.7 (1) This rule applies if—

- (a) the accused pleads guilty; and
- (b) the Court is satisfied that the plea represents a clear acknowledgement of guilt.

(2) The prosecution must summarise the prosecution case against the accused to the Court.

(3) The Court may convict the accused without receiving evidence.

Application to withdraw a guilty plea

17.8 (1) This rule applies where the accused wants to withdraw a guilty plea.

(2) The accused must apply to do so—

- (a) as soon as practicable after becoming aware of the reasons for doing so; and
- (b) before sentence.

(3) The application may be in writing and where it is in writing, the accused must serve it on—

- (a) the Court office; and
- (b) the prosecutor.

(4) The application must—

- (a) explain why it would be unjust not to allow the accused to withdraw the guilty plea;
- (b) identify—
 - (i) any witness that the accused wants to call; and
 - (ii) any other proposed evidence; and
- (c) state whether the accused waives legal professional privilege, giving any relevant name and date.

(5) The Court shall consider the matters stated in subrule (4) and may in its discretion, grant or refuse an application made in accordance with this rule, as the justice of the case requires.

Procedure if the Court convicts

17.9 (1) This rule applies if the Court convicts the accused or the accused is convicted by the decision of a jury.

(2) The Court may, where appropriate, exercise its power to require—

- (a) a statement of the accused's financial circumstances; and
- (b) a pre-sentence or probation report.

(3) The prosecution must—

- (a) provide information relevant to sentence, including any statement of the effect of the offence on the victim, the victim's family or persons connected to the victim or the offence; and
- (b) where it is likely to assist the Court, identify any other matter relevant to sentence, including—
 - (i) aggravating and mitigating factors;
 - (ii) the legislation applicable; and
 - (iii) any sentencing guidelines, or guideline cases.

(4) The accused must provide details of financial circumstances—

- (a) in any form required by the Court; or
- (b) by any date directed by the Court.

(5) Where the accused pleads guilty but wants to be sentenced on a different basis to that disclosed by the prosecution—

- (a) the Court may require the accused to set out that basis in writing, identifying what is in dispute;
- (b) the Court may invite the parties to make representations about whether the dispute is material to the sentence to be imposed on the accused; and
- (c) if the Court decides that it is a material dispute, the Court must—
 - (i) invite such further representations or evidence as it may require; and
 - (ii) decide the dispute.

(6) Before the Court passes sentence—

- (a) the Court must—
 - (i) give the accused an opportunity to make representations and introduce evidence relevant to sentence; and

- (ii) where the accused is under 18 years, give the parents of the accused, guardian or other supporting adult, if present, such an opportunity as well; and
- (b) the Court may elicit any further information relevant to sentence that the Court may deem necessary.
- (7) If the Court requires more information, it may exercise its power to adjourn the hearing for not more than 28 days at a time.
- (8) When the Court has taken into account all the evidence, information and any report available, the Court must—
 - (a) as a general rule, pass sentence there and then;
 - (b) when passing sentence, explain the reasons for deciding on that sentence, unless neither the accused nor any member of the public is present;
 - (c) in circumstances where there is a power to review the sentence, explain to the accused its effect and when passing sentence, explain to the accused its effect and the consequences of failing to comply with any order or payment of any fine;
 - (d) give any such explanation in terms the accused, if present, can understand (with help, if necessary); and
 - (e) consider exercising any power it has to make a costs or other order.

18. Applications for exemption from jury service

18.1 (1) Applications for exemption from jury service may be heard by a Judge in Chambers or a Master.

(2) The Judge in Chambers or Master may decide the application on the basis of the documentation provided by the applicant without an oral hearing.

(3) The Judge in Chambers or Master may, in his discretion, permit the applicant to make oral submissions.

18.2 (1) An application for exemption must be made in writing, either on the form provided by the Court or by a letter addressed to the Registrar.

(2) As far as possible, any ground relied upon for exemption, must be supported by documents.

(3) Where the applicant relies on medical grounds, the following shall be applicable:

- (a) a medical report signed by a registered medical practitioner must be produced; and
- (b) if the medical report is handwritten, the handwriting must be legible.

(4) The medical report referred to in subrule (3) must include the following information:

- (a) the name of the patient;
- (b) the length of time the doctor has been treating the patient;
- (c) the diagnosis and the date on which the diagnosis was first made;
- (d) the last date on which the patient was seen by the doctor;
- (e) the treatment prescribed by the doctor; and
- (f) where applicable, whether the patient is able to continue his employment notwithstanding the diagnosed condition or whether the patient requires sick leave and the length of such recommended sick leave.

(5) Where the applicant relies on the ground of travel out of the jurisdiction, the following shall be applicable:

- (a) a valid ticket or travel itinerary must be provided; and
- (b) the ticket should have been booked or purchased before the jury summons was served on the juror.

(6) Where the applicant relies on the ground of being a student the following shall be applicable:

- (a) a letter from the school administration indicating that the juror is a full-time student of that institution;
- (b) if the student attends school part time during normal Court hours, a letter from the school administration indicating the times at which the juror must attend classes must be provided; and
- (c) if the juror is scheduled to write exams, a valid examination timetable must be provided.

19. Case Management Forms and Records

19.1 The Hearing Questionnaire and Certificates of Readiness set out as Forms 1 and 2 shall be used where relevant and where there is no form, then no specific formality is required.

19.2 The Court shall issue and make available to the parties any order or directions given.

20. Practice Directions and Guides

20.1 The Chief Justice may issue practice directions and practice guides in furtherance of the relevant legislation and these Rules.

Publication of Practice Directions and Effective Date

20.2 Practice directions must be—

- (a) published in the *Trinidad and Tobago Gazette*; and
- (b) displayed and made available at each Court office.

20.3 A practice direction takes effect from the date of publication in the *Gazette* unless the direction specifies another date.

Compliance with Practice Directions and Guides

20.4 (1) If a party fails to comply with a practice direction, the Court may impose such sanction or make such order, as may be appropriate against him in accordance with rule 10.3.

(2) The court may take into account the failure of any party to comply with any practice guide when deciding whether or not to impose such sanction or make such order in accordance with rule 10.3.

21. Service of Documents

Personal Service

21.1 (1) A document is served personally on an individual by handing it to, or leaving it with, the person to be served.

(2) Where a document is left in accordance with subrule (1), the nature and the contents of the document must be explained by the serving party where practicable.

(3) Service is deemed to be effected on the day it is handed to, or left with, the person being served.

Service on a Company

21.2 (1) A document is served on a company by handing it to, or leaving it with a director, officer, receiver, receiver-manager or liquidator of the company or by prepaid post addressed to the registered office of the company.

(2) Where service is effected on a company by pre-paid post addressed to the registered office of that company, service is deemed to be effected on the fourteenth day from the date the document was posted.

Service on a person in custody

21.3 (1) Service on a person in custody may be effected by handing the document to the Keeper or a person designated by him addressed to the person to be served.

- (2) The Keeper or a person designated by him must—
- (a) endorse it with time and date of receipt;
 - (b) record its receipt; and
 - (c) forward it promptly to the addressee.

Address for serving documents not required to be served personally

21.4 (1) Where a document is not required to be served personally, and a party has given an address at which documents for him may be served, the documents may be delivered or posted to him at that address.

(2) If the party has given a facsimile transmission number in his address for service, the documents may be sent by facsimile transmission to that number.

Service by electronic means

21.5 (1) This rule applies where—

- (a) the person or company to be served—
 - (i) has given an electronic address; and
 - (ii) has agreed to accept service by electronic means; or
- (b) the person to be served is legally represented in the case and the representative has given an electronic address.

(2) A document may be served by transmitting it by electronic means to that person or representative, as appropriate, at that address.

(3) Where a document is served under this rule, the person serving it need not provide a paper copy as well.

(4) Where service is effected by electronic means, service is deemed to be effected on the next business day after the document was transmitted.

Alternative methods of service

21.6 (1) Instead of personal service, a party may apply to the Court for an alternative method of service.

(2) Where a party chooses an alternative method of service and the Court is asked to take any step on the basis that the document has been served, the party who served the document must prove service to the satisfaction of the Court by filing an affidavit—

- (a) giving details of the method of service used;
- (b) stating that—
 - (i) the person intended to be served was able to ascertain the contents of the documents; or
 - (ii) it is likely that he would have been able to do so; and
- (c) stating the time when the person served was, or was likely to be in a position to ascertain the contents of the documents.

(3) The Court office must immediately refer to the Court for consideration any affidavit filed under subrule (2).

(4) If the Court is not satisfied with the method of service the Court must fix a date, time and place to consider making an order and give at least 3 days' notice to the party making the application.

Service by person in custody

21.7 (1) In instituted proceedings, a person in custody may serve a document by handing it to the Keeper or a person designated by him and addressed to the person to be served.

(2) The Keeper or a person designated by him must—

- (a) endorse it with time and date of receipt;
- (b) record its receipt; and
- (c) forward it promptly to the relevant Court office for transmission to the addressee.

Documents to be served personally

21.8 The following documents are to be served personally:

- (a) complaints, summonses or indictments;
- (b) Writs of *Subpoena ad testificandum* or Writs of *Subpoena duces tecum*;
- (c) applications, written statements or notices alleging conduct constituting contempt of Court; and
- (d) notices which require personal service by any enactment.

Permitted place of service

21.9 Except as permitted by rule 21.12, a document must be served at a place within the jurisdiction.

Proof of personal service

21.10 (1) Personal service of any document is to be proved by an affidavit sworn by the server of the document stating—

- (a) the date and time of service;
- (b) the precise place or address at which it was served;
- (c) precisely how the person served was identified; and
- (d) precisely how service was effected.

(2) Where the person served was identified by another person, there must also be filed where practicable, an affidavit by that person proving the identification of the person served and stating how the person was able to identify the person served.

(3) Where the server identified the person to be served by means of a photograph or description, there must also be filed an affidavit by a person verifying the description or photograph as being the person intended to be served and stating how that person was able to verify the description or photograph as being the person intended to be served.

Power of Court to dispense with service

21.11 (1) The Court may dispense with service of a document if it is appropriate to do so.

(2) An application for an order to dispense with service may be made without notice.

Service of Court process outside the jurisdiction

Ch. 11:24.

21.12 (1) Where process is required to be served outside Trinidad and Tobago, it shall be served in accordance with sections 14 and 33B of the Mutual Assistance in Criminal Matters Act.

(2) For the purposes of this Rule, “process” includes a summons, order, subpoena or other similar document issued by a Court requiring a person to attend the Court in relation to criminal proceedings.

22. Time Computation

22.1 (1) This Rule shows how to calculate any period of time for doing any act which is fixed by—

- (a) these Rules;
- (b) any Practice Direction; or
- (c) any order or direction of the Court.

(2) All periods of time expressed as a number of days are to be computed as clear days.

(3) In this rule, “clear days” means that in computing the number of days the day on which the period begins and the day on which the period ends are not included.

(4) Where the specified period is 5 days or less, and includes a Saturday or Sunday, or any other day on which the Court office is closed, that day does not count.

(5) When the period fixed by these Rules, by any practice direction, or by any order, for doing any act at the Court office ends on a day on which the Court is closed, it shall be in time if done before 4.00 p.m. on the next day on which the Court is open.

(6) When the period fixed by these Rules, any practice direction, or by any order, for doing any act which does not need to be done at Court ends on a Saturday or Sunday, on any public holiday, or on Carnival Monday or Carnival Tuesday, it must be done before 4.00 p.m. on the next ordinary business day.

23. Revocation of the Criminal Procedure Rules, 2013.

23.1 The Criminal Procedure Rules, 2013 are revoked.

L.N. No. 91 of
2013 revoked.

SCHEDULE

FORM 1

(Rule 15)

NOTICE OF ALIBI

(Section 16A of the Indictable Offences (Preliminary Enquiry) Act, Chap. 12:01)

Magisterial Case Number:

TO: The Director of Public Prosecutions.

Complainant:
(Rank) (Name) (Regimental Number)

Accused:
(Surname) (First Name)

The particulars of my claim of alibi are: (See note 1 overleaf)

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

The accused intends to rely upon the testimony of the following witnesses to establish the alibi:

No.	Name of Witness	Address	Additional Information (e.g., phone nos., description, relatives)	Occupation
1				
2				

Dated this _____ day of _____, 20__ .

Accused

Attorney-at-law for the Accused

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IMPORTANT NOTES

1. State the specific place(s) where the accused claims he was at the time of the alleged offence and any other person(s) who were present whose identities are known.
2. In accordance with sections 16A(1) and 16B(3)(a) you are required to give the names and addresses of all proposed witnesses or if such information is not known, all information in your possession or which comes into your possession, which would assist in identifying and locating the witnesses you propose to call.
3. If after the giving of this notice you discover the name, address or any other information which would materially assist in the locating of any witness whose name and address is not included in this notice you are required to furnish to the Director of Public Prosecutions forthwith, that information.
4. This Notice must be delivered to or left at the office of the Director of Public Prosecutions no later than ten (10) days from the end of the committal proceedings.

Where a party finds that insufficient space is provided to complete a response, the answer may be given on a separate sheet of paper attached.

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FORM 2

CERTIFICATE OF READINESS
(Prosecutor)

(Rule 16)
(Offence)
Advocate (Name of Advocate) (Bar No.)
(Tel No., Fax No., E-mail Address)

REPUBLIC OF TRINIDAD AND TOBAGO

IN THEMAGISTRATES/HIGH COURT OF JUSTICE

Cr. No.

BETWEEN

THE STATE

AND

A. B.

Accused

CERTIFICATE OF READINESS

For Case Management Hearing scheduled for
month/day/year

(Check the appropriate boxes and complete as required.)

1. Name of the accused to which this report applies: _____

2. I am advised by Attorney-at-law for the accused that the matter will be disposed of at scheduled trial confirmation hearing.

(If you check this box, skip items 3 to 11 but complete and sign the date/signature blocks at item 12.)

3A. I have reviewed the file and confirm that I am ready to proceed.

3B. The prosecutor is seeking an adjournment for the following reasons:

4. It is anticipated that the prosecution will call—

(a) (number) police witnesses (excluding expert witnesses);

(b) (number) expert witnesses; and

(c) (number) other witnesses.

5. I have confirmed that all witnesses for the prosecution have been notified and are available to attend on the date set.

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6. The prosecutor's case is expected to take _____
time estimated.
7. To the best of my knowledge, there are no outstanding issues respecting disclosure under Rule 14.
8. All required notices and reports have been provided or will have been provided within applicable time limits.
9. All necessary orders for the attendance of the accused and any witness for the prosecution have been obtained or will have been obtained.
10. Since the accused's directions hearing admissions regarding expert testimony and other evidence have been canvassed with legal counsel for the accused.
11. I expect to make an application before/during the hearing.

12. Date: _____
month/day/year

Signature of Prosecutor
(Print full name)

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FORM 3

CERTIFICATE OF READINESS
(Attorney-at-law for the Accused)

Rule 16
(Offence)

Advocate (Name of Advocate) (Bar No.)
(Tel No., Fax No., E-mail Address)

REPUBLIC OF TRINIDAD AND TOBAGO

IN THEMAGISTRATE'S/HIGH COURT OF JUSTICE

Cr. No.

BETWEEN

THE STATE

AND

A. B.

Accused

CERTIFICATE OF READINESS

For Pre-Trial Hearing scheduled for.....
month/day/year

(Check the appropriate boxes and complete as required.)

1. Name of the accused to which this report applies:

2. I expect this matter will proceed on the date set.

3. To the best of my knowledge, there are no outstanding issues respecting disclosure under Rule 14.

4. The accused is seeking an adjournment for the following reasons:

Check if more space is required and add another page.

5. It is anticipated that the defence will call _____ number of witnesses.

6. All necessary orders for the attendance of any witness for the accused have been obtained or will have been obtained.

7A. The time estimated for this matter is adequate.

OR

7B. The time estimated for this matter is inadequate and a revised time estimate is

8. I expect to make an application before/during the hearing.

9. Date: _____
month/day/year Signature of Attorney-at-law for the Accused

(Print full name)
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FORM 4

HEARING QUESTIONNAIRE

(Rule 16.3)

(Offence)

Advocate (Name of Advocate) (Bar No.)

(Tel No., Fax No., E-mail Address)

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE

Cr. No.

BETWEEN

THE STATE

AND

A. B.

Accused

HEARING QUESTIONNAIRE

Before the date set for the first Case Management Hearing, Counsel on record for each accused person, and the State Prosecutor assigned to conduct the prosecution, shall each complete and sign Case Management Hearing Questionnaire and ensure that the questionnaire is filed and served in accordance with these Rules or any directions of the Court.

Where a party finds that insufficient space is provided to complete a response to a particular question, the answer may be given on a separate sheet of paper attached to the back of this form. The fact that the response is provided and attached on a separate sheet is to be indicated in the space provided on the form.

PRELIMINARY INFORMATION

Name of Case _____

Court _____ POS/S'FDO/TGO

Report prepared by _____

Prosecution Defence

Counsel for _____

[insert name of accused person(s)]

Has Counsel discussed the issues raised in this form with the accused? Yes No

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CASE/BAIL HISTORY

Date(s) of Offence(s):

Date of Arrest:

Date of any orders made by the court:

Date Indictment filed:

Is the accused detained in custody on this/these charges? Yes No

If yes, how long has the accused spent in custody? _____

Is the accused detained in custody on any other charges? Yes No

Is this matter a re-trial? Yes No

Are notes of evidence from the previous trial available? Yes No

If yes, give details of why retrial ordered

PLEA DISCUSSIONS

Have the parties considered Plea Discussions under the Criminal Procedure (Plea Discussion and

Plea Agreement) Act, Chap. 13:07? Yes No

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Is the State open to a plea to a lesser count? (where applicable) Yes No

Has a plea agreement been concluded? Yes No

Is the accused going to make an application for a Sentence Indication Hearing? Yes No

PRELIMINARY MATTERS

Have all disclosure issues been resolved? Yes No

If not, what is outstanding?

Are there any witnesses on deposition that the prosecution does not intend

to call/rely upon? Yes No

Is there likely to be an application to the Court for Order(s)

in relation to Disclosure? Yes No

What are the real issues?

The Prosecution/Defence intends to make any of the following applications:

Amendment Yes No

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Application to Stay Proceedings	Yes	No
Severance	Yes	No
Application to Quash Indictment	Yes	No
Change of Venue	Yes	No
Application for leave to adduce hearsay evidence	Yes	No
Fitness to Plead	Yes	No
Application for leave to adduce Alibi Evidence	Yes	No
Fresh Evidence	Yes	No
Bad Character	Yes	No
To admit Written Statements	Yes	No
To admit Video Recordings	Yes	No
Breach of Constitutional Rights	Yes	No
Mental Health Issues- Psychiatric Evaluation/Report	Yes	No
To exclude specific pieces of Evidence	Yes	No
Probation Report	Yes	No

If you have ticked “yes” to any of the above-mentioned applications, please specify in writing to the Court on a separate page if the space provided below is insufficient the following information:

- (1) The specific application(s) to be made.
- (2) The Jurisdiction (Common Law/Statute) under which the Application is being made.
- (3) Whether there is anything precluding the Court from Ruling on these Applications at the Case Management Hearing

If no, are you prepared to consider agreeing evidence that is not in dispute? Yes No

ORAL/WRITTEN STATEMENTS

Is the Prosecution relying upon a written/oral statement of the accused? Yes No

Is the accused challenging the statement? Yes No

If yes, please specify grounds

If no, is the defence making any allegation of improper conduct on the part of any police officer or other official in relation to any oral or written statement? Yes No

Has the prosecution been informed of the grounds of objection or allegation of improper conduct? Yes No

Has disclosure been made of relevant material relative to a *voir dire*? Yes No

Will there be any application to edit a statement of the accused? Yes No

SPECIAL DEFENCE ISSUES

Does the defence propose to rely on Good Character evidence? Yes No

Is the defence relying on an alibi? Yes No

Has notice been given to the Prosecution in accordance with the Act? Yes No

Does the defence intend to now give notice of an alibi? Yes No

Does the accused intend to call any witnesses? Yes No

If yes, please indicate the number _____

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SPECIAL ADMINISTRATIVE MATTERS

Are there any special security concerns for the court to consider?	Yes	No
Is there any need for an interpreter?	Yes	No
Is there likely to be any application to visit the locus?	Yes	No
Is there need for any special equipment, e.g., video/projectors, etc.	Yes	No
Is there to be an application to have an empanelled jury sequestered?	Yes	No

ANY OTHER CONCERNS

Please Specify:

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