

**CRIMINAL PROCEDURE (PLEA DISCUSSION
AND PLEA AGREEMENT) ACT**

CHAPTER 13:07

Act
*12 of 2017
Amended by
207/2018

(*See Note on page 2)

Current Authorised Pages

<i>Pages (inclusive)</i>	<i>Authorised by L.R.O.</i>
1-37	..

Note on Subsidiary Legislation

This Chapter contains no subsidiary legislation.

Note on Act No. 12 of 2017

Act No. 12 of 2017 which repealed Act No. 11 of 1999 took effect on 2nd January 2019 by LN 192/2018.

UNOFFICIAL

CHAPTER 13:07

**CRIMINAL PROCEDURE (PLEA DISCUSSION
AND PLEA AGREEMENT) ACT**

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CHAPTER 13:07

CRIMINAL PROCEDURE (PLEA DISCUSSION
AND PLEA AGREEMENT) ACT

An Act to establish a system of plea discussions and plea agreements and for matters incidental thereto. 12 of 2017.

*[ASSENTED TO 28TH SEPTEMBER 2017]

PART I

PRELIMINARY

1. (1) This Act may be cited as the Criminal Procedure (Plea Discussion and Plea Agreement) Act. Short title and commencement.

(2) This Act came into operation on 2nd January 2019.

2. In this Act—

“accused person” means—

(a) a person against whom a complaint is made or an information laid; or

(b) a person against whom an indictment is preferred;

“business” includes a profession, occupation or undertaking, outside of the public sector, whether carried on for profit or otherwise;

†“committal proceedings” means proceedings held under the Indictable Offences (Preliminary Enquiry) Act; Ch. 12:01.

“Court” means the High Court or the Magistrate’s Court, as the context may require;

“Court Interpreter” means any person who holds a valid licence or who is appointed under the Interpreters Act; Ch. 6:54.

“Director of Public Prosecutions” means the public officer appointed under section 90 of the Constitution;

*See Section 1(2) for the date which this Act came into force. (LN 192/2018.)

†The Indictable Offences (Preliminary Enquiry) Act has been repealed and replaced by the Administration of Justice (Indictable Proceedings) Act, Chap. 12:01.

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“former Act” means the Criminal Procedure (Plea Discussion and Plea Agreement) Act;

“improper inducement”, includes—

- (a) the laying of a charge, or causing a charge to be laid, without reasonable cause;
- (b) the coercion of an accused person or suspect to enter into a plea discussion or conclude a plea agreement, including a threat—
 - (i) to lay a charge or cause a charge to be laid of the type described in paragraph (a); or
 - (ii) that any plea of not guilty entered into by the accused person will result, upon the accused person’s conviction, in the prosecutor asking for a sentence more severe than the sentence that is usually imposed upon an accused person who is convicted of a similar offence;
- (c) the misrepresentation of a material fact either before a plea discussion is entered into or during the course of the discussion;
- (d) an offer or promise, the fulfilment of which is not the function of the Director of Public Prosecutions; or
- (e) an attempt to persuade the accused person or suspect to plead guilty notwithstanding the accused person’s or suspect’s denial of guilt;

“Minister” means the Attorney General;

“offence” means a criminal offence;

“particular course of action” means a course of action referred to in section 4(b), that a prosecutor may take under a plea agreement;

“plea agreement” means an agreement made between the prosecutor and the accused person or suspect under section 4 of this Act;

“plea agreement hearing” means a hearing in respect of a plea agreement held before a Court;

“plea discussion” means a discussion held between a prosecutor and an accused person or a suspect for the purpose of arriving at a plea agreement;

“prosecutor” means the Director of Public Prosecutions or an Attorney-at-law authorised, in writing, by the Director of Public Prosecutions to engage in a plea discussion or conclude a plea agreement;

“relative” means—

(a) in relation to the victim—

- (i) his parent, step-parent or guardian;
- (ii) his spouse, cohabitant or fiancé;
- (iii) his child, step-child or other dependant;
- (iv) his brother, sister, step-brother or step-sister;
- (v) his grandparent; or
- (vi) any appropriate person who the Court determines to be of sufficient proximate relationship (whether by blood or otherwise) to be considered a member of the victim’s immediate family; or

(b) any other person responsible for the victim’s care and support;

“suspect” means a person whom a police officer, with reasonable cause, suspects has committed an offence, but who is not charged;

“victim” means—

- (a) a person against whom an offence is committed;
- (b) a person who suffers physical, mental or emotional harm or economic loss as a direct result of the commission of an offence against another person; or
- (c) a business that suffers economic loss as a direct result of the commission of an offence;

“victim impact statement” means a written statement made by a victim which is provided to a prosecutor under Part III.

Application
of Act.

3. (1) This Act applies to both summary and indictable offences.

(2) This Act does not affect—

- (a) the right of an accused person to plead guilty without entering into a plea agreement; or
- (b) the right of an accused person to seek a sentence indication from the Court of the maximum sentence that the Court may impose if the accused pleads guilty to an offence.

Plea agreement.

4. For the purpose of this Act, a plea agreement is an agreement made in the interest of justice between the prosecutor and the accused person or suspect in which—

(a) the accused person or suspect agrees—

- (i) to plead guilty to an offence which is disclosed on the facts and on which the charge is based; and
- (ii) to fulfill any other obligations specified in the plea agreement; and

(b) the prosecutor agrees to take a particular course of action including—

- (i) the withdrawal or discontinuation of the original charge or charges against the accused person or a co-accused;
- (ii) the reduction of the charge against the accused person or a co-accused to a lesser offence than that charged;
- (iii) an undertaking not to institute charges against family members or friends of the accused person or suspect where there is evidence to sustain such charges against such persons;

- (iv) an undertaking to recommend summary trial rather than trial on indictment;
- (v) a recommendation to the Court that a particular sentence or sentencing range is appropriate;
- (vi) an undertaking not to oppose a request by an accused person or his Attorney-at-law that a particular sentence be imposed;
- (vii) a promise to proceed summarily rather than indictably; and
- (viii) a recommendation to the Court that the record of the plea discussion and the plea agreement be sealed.

PART II

PLEA DISCUSSIONS

- 5.** A plea discussion may be held and a plea agreement concluded at any time before conviction, including, before charges are instituted. Plea discussions may be entered into at anytime before conviction.
- 6.** A prosecutor shall not enter into a plea discussion or conclude a plea agreement unless the prosecutor first obtains the written permission of the Director of Public Prosecutions. Permission of Director of Public Prosecutions required.
- 7.** No improper inducement shall be used to encourage an accused person or suspect to participate in a plea discussion or conclude a plea agreement. Improper inducements prohibited.
- 8.** A prosecutor shall not initiate or participate in a plea discussion or conclude a plea agreement that requires— Prohibition against plea discussions in certain circumstances.
- (a) the accused person or suspect to plead guilty to an offence that—
 - (i) is not disclosed by the evidence; or
 - (ii) does not adequately reflect the gravity of the provable conduct of the accused person or suspect unless, in the discretion

of the Director of Public Prosecutions, the charge is justifiable having regard to—

- (A) the benefits that will accrue to the administration of justice; and
- (B) the protection of society from the prosecution of the accused person or suspect; or

(b) the prosecutor to withhold or distort evidence.

Plea discussion with represented accused person.

9. Where an accused person or suspect is represented by an Attorney-at-law, a prosecutor shall not initiate or engage in a plea discussion with the accused person or suspect in the absence of his Attorney-at-law.

Procedure for plea discussions with unrepresented persons.

10. (1) A prosecutor shall not initiate a plea discussion with an accused person who is not represented by an Attorney-at-law unless—

(a) the prosecutor has informed the accused person—

- (i) of his right to be represented by an Attorney-at-law during plea discussions;
- (ii) of his right to apply for legal aid and advice under the Legal Aid and Advice Act, where the accused person cannot afford to retain an Attorney-at-law;
- (iii) of his right to protection against self-incrimination;
- (iv) of his right to be presumed innocent;
- (v) of his right to remain silent;
- (vi) of his right to seek a sentence indication from the Court of the maximum sentence that the Court may impose if the accused person pleads guilty to an offence; and

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- (vii) that he may elect to have a third party of his choice present during the plea discussions;
- (b) the accused person has informed the prosecutor, in the form set out in Form 1 in the Schedule, that having been advised by the prosecutor of the matters referred to in paragraph (a), he desires—
- Form 1.
Schedule.
- (i) to enter into plea discussions; and
 - (ii) to represent himself in those plea discussions; and
- (c) the Court—
- (i) has been informed of the matters set out in paragraphs (a) and (b);
 - (ii) is satisfied that the accused person is competent to enter into plea discussions and conclude a plea agreement; and
 - (iii) approves of the initiation of plea discussions.
- (2) A prosecutor shall not initiate a plea discussion with a suspect who is not represented by an Attorney-at-law unless—
- (a) the prosecutor has informed the suspect—
- (i) of his right to be represented by an Attorney-at-law during plea discussions;
 - (ii) of his right to apply for legal aid and advice under the Legal Aid and Advice Act, where the suspect cannot afford to retain an Attorney-at-law; Ch. 7:07.
 - (iii) of his right to protection against self-incrimination;
 - (iv) of his right to be presumed innocent;
 - (v) of his right to remain silent; and
 - (vi) that he may elect to have a third party of his choice present during the plea discussions; and

Form 1A.
Schedule.

(b) the suspect has informed the prosecutor, in the form set out in Form 1A in the Schedule, that having been advised by the prosecutor of the matters referred to in paragraph (a)—

- (i) he desires to represent himself; and
- (ii) he agrees to the plea discussions being recorded.

Prosecutor's
duty to disclose
evidence.

11. (1) If plea discussions are initiated before charges are laid, the prosecutor shall inform the suspect of the allegations against him and provide the suspect or his Attorney-at-law with a written summary of the relevant evidence against him including any evidence in the possession of the State which materially weakens the case for the prosecution or assists the case for the suspect.

(2) If a plea discussion is initiated after charges are laid but before the prosecutor tenders evidence implicating the accused person, the prosecutor shall provide the accused person or his Attorney-at-law with a written summary of the relevant evidence against him including any evidence in the possession of the State which materially weakens the case for the prosecution or assists the case for the accused person.

(3) Nothing contained in subsection (1) or (2) is to be construed as requiring the prosecutor to disclose—

- (a) all of the evidence supporting his case; or
- (b) the names of witnesses or any other information by which such witnesses may be identified,

if the prosecutor is reasonably of the view that such information should not be disclosed at that stage and the suspect or accused person is not thereby misled or prejudiced.

Procedure at
the first
appearance
of an accused
person.

12. Upon the first appearance of an accused person before a Court, whether the accused is represented by an Attorney-at-law or not, the Court shall advise the accused person—

- (a) of his right to enter into a plea discussion with the prosecutor and to be represented by an Attorney-at-law during the plea discussion;

- (b) if the accused person cannot afford to retain an Attorney-at-law of his right to apply for legal aid under the Legal Aid and Advice Act for the purpose of entering into a plea discussion; or
- (c) of his right to enter into a plea discussion with the prosecutor under section 10(1) if he does not wish to be represented by an Attorney-at-law.

PART III

VICTIM IMPACT STATEMENT

13. (1) Every victim may provide a victim impact statement explaining the physical or emotional harm, financial loss or other impact that the offence has had on the victim.

Victim impact statement.

(2) Before a plea discussion is concluded, the prosecutor shall inform the victim that he may provide a victim impact statement and of the restrictions specified in section 14 with respect to the content of the victim impact statement.

(3) A prosecutor who concludes a plea agreement with an accused person or a suspect shall ensure that the victim is informed—

- (a) of the substance and reasons for the plea agreement unless compelling reasons, including the likelihood of serious harm to the accused person, suspect or another person, require otherwise;
- (b) of the date of the plea agreement hearing and the victim's right to attend all stages of the hearing and to be heard at the hearing; and
- (c) that he may read his victim impact statement in Court or have his victim impact statement read by the prosecutor or an officer of the Court if the victim does not wish to read the victim impact statement himself.

14. A victim impact statement shall not include—

- (a) a restatement of the facts of the offence;

Restriction on the content of a victim impact statement.

- (b) criticisms about the accused person; or
- (c) the victim's opinion about the type or severity of sentence to be imposed.

Victim impact statement may be made by a relative of the victim.

15. (1) A relative of the victim may provide a victim impact statement on behalf of the victim at any time before a Court imposes sentence if the victim—

- (a) has died;
- (b) is ill or otherwise incapacitated; or
- (c) cannot be found.

(2) The prosecutor shall—

- (a) advise the relatives of the victim that they are entitled to make a victim impact statement of the effect of the crime on the victim; and
- (b) communicate with the relatives of the victim in respect of the matters set out in sections 13 and 14.

Victims under fourteen years of age.

16. Where the victim is a child—

- (a) under the age of fourteen years, a parent or guardian or, where the parents or guardians cannot be located, a person who has custody of the victim or who is responsible for the victim's care and support may make a victim impact statement on behalf of the victim; or
- (b) has attained the age of fourteen years, the victim and one of his parents or guardians or, where the parent or guardian cannot be located, a person who has custody of the victim or who is responsible for the victim's care and support may make a victim impact statement on behalf of the victim.

Victim impact statement by a business. Form 2. Schedule.

17. If the victim is a business, a duly authorised representative of the business may provide a victim impact statement in the form set out in Form 2 of the Schedule.

18. (1) The prosecutor shall ensure that a victim impact statement complies with the requirements of section 14.

Duties of the prosecutor in respect of victim impact statements.

(2) If a victim impact statement contains material that is not permitted under section 14, the prosecutor shall redact that material from the victim impact statement before it is filed with the Court.

(3) A victim impact statement shall be filed with the Court at the time of the filing of the plea agreement.

(4) After receiving the victim impact statement, the prosecutor shall serve the victim impact statement on the accused person or his Attorney-at-law as soon as it is reasonably practicable to do so and in any event, before it is filed with the Court.

PART IV

PLEA AGREEMENTS AND PLEA AGREEMENT HEARINGS

19. (1) A plea agreement concluded between a prosecutor and the Attorney-at-law for—

Form and filing of plea agreement with a represented person.

- (a) an accused person; or
- (b) a suspect,

shall be in the form set out in Form 3 of the Schedule.

Form 3.
Schedule.

(2) Where an accused person is before a Magistrate, the plea agreement shall be filed with the Clerk of the Peace, along with the following documents:

- (a) a statement by the accused person in the form set out in Form 4 of the Schedule;
- (b) a statement by the Attorney-at-law for the accused person in the form set out in Form 5 of the Schedule;
- (c) if a Court Interpreter was used during plea discussions, a certificate in the form set out in Form 6 of the Schedule, by the Court Interpreter as to the accuracy of the

Form 4.
Schedule.

Form 5.
Schedule.

Form 6.
Schedule.

L.R.O.

- interpretation during the plea discussion and the accuracy of the translation of the plea agreement;
- (d) victim impact statements, if any; and
- (e) the complaint or draft indictment in the case of committal proceedings.

(3) Where an accused person is before the High Court, the plea agreement shall be filed with the Registrar of the Court, along with the documents referred to in subsection (2)(a) to (d) and the indictment.

Form and filing of plea agreement with unrepresented person.

20. (1) A plea agreement concluded between a prosecutor and—

- (a) an unrepresented accused person; or
- (b) an unrepresented suspect,

Form 7. Schedule.

shall be in the form set out in Form 7 of the Schedule and shall be signed by both parties in the presence of a Justice of the Peace.

(2) Where an unrepresented accused person is before a Magistrate, the plea agreement shall be filed with the Clerk of the Peace, along with the following documents:

Form 1. Form 1A. Schedule.

- (a) a statement in the form set out in Form 1 or Form 1A of the Schedule, where applicable;
- (b) if a Court Interpreter was used during plea discussions, a certificate in the form set out in Form 6 of the Schedule, by the Court Interpreter as to the accuracy of the interpretation during the plea discussion and the accuracy of the translation of the plea agreement;
- (c) victim impact statements, if any; and
- (d) the complaint or draft indictment in the case of committal proceedings.

Form 6. Schedule.

(3) Where an unrepresented accused person is before the High Court, the plea agreement shall be filed with the Registrar of the Court, along with the documents referred to in subsection (2)(a) to (c) and the indictment.

21. (1) Within twenty-eight days of the date that a plea agreement is filed, the matter shall be listed for a plea agreement hearing.

Listing matters for plea agreement hearing.

(2) If a matter is not listed before the Court for a plea agreement hearing within the period required under subsection (1)—

- (a) the prosecutor;
- (b) the Attorney-at-law for the accused person; or
- (c) the accused person,

may make an application either orally or in writing in the form set out as Form 8 in the Schedule to have the matter listed for a plea agreement hearing.

Form 8.
Schedule.

22. (1) If a plea agreement is filed at any time before an accused person is committed to stand trial in the High Court, the Magistrate shall—

Plea agreements at committal proceedings.

- (a) cease conduct of the committal proceedings, if proceedings have commenced;
- (b) transfer the matter to the High Court for a plea agreement hearing; and
- (c) within fourteen days of transferring a matter under paragraph (b), forward the following documents to the High Court:
 - (i) all documents filed under section 19(2) or 20(2);
 - (ii) witness statements, if any;
 - (iii) documentary exhibits; and
 - (iv) any other documents filed during the conduct of the committal proceedings.

(2) Where a Magistrate transfers a matter under subsection (1)(b), the Magistrate may grant bail to the accused person under the Bail Act.

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(3) Within fourteen days of receiving the documents forwarded by a Magistrate under subsection (1)(c), the matter shall be listed for a plea agreement hearing before the Court.

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Director of
Public
Prosecutions to
prefer
indictments.

23. Notwithstanding any other law to the contrary, if a plea agreement is filed before the commencement or conclusion of committal proceedings, the Director of Public Prosecutions shall prefer an indictment and file the indictment with the Registrar within fourteen days of the date that the matter is transferred under section 22(1)(b).

Procedure at
plea agreement
hearing.

24. (1) A plea agreement hearing shall be held in open Court unless, having taken all of the circumstances into consideration, the Court considers that the hearing should be held *in camera*.

(2) At a plea agreement hearing, the prosecutor shall disclose the following information to the Court in the presence of the accused person and his Attorney-at-law or in the presence of the accused person who has elected to represent himself under section 10:

- (a) the substance of, and reasons for the plea agreement;
- (b) whether a previous plea agreement has been disclosed to a Court in connection with the same matter and the substance of that plea agreement, if any;
- (c) if no victim impact statement is filed, whether the victim was informed of his right to make a victim impact statement and of the matters mentioned in sections 13 and 14; or
- (d) if a victim impact statement is filed, whether the victim would like to read his victim impact statement in open Court or have the statement read by the prosecutor or an officer of the Court.

(3) Before accepting or rejecting a plea agreement, the Court shall make enquiries of the accused person in order to determine whether the accused person—

- (a) understands the nature and substance of the plea agreement, including the recommended sentence;

- (b) received legal advice before signing the plea agreement;
- (c) understands the nature of the offence with which he is charged and to which he is pleading;
- (d) understands that this trial shall be conducted by a Judge and jury, where applicable;
- (e) is aware of his rights, including the right to—
 - (i) not incriminate himself;
 - (ii) plead not guilty;
 - (iii) be presumed innocent;
 - (iv) have the State prove its case beyond a reasonable doubt;
 - (v) be represented by an Attorney-at-law at trial;
 - (vi) cross-examine witnesses; and
 - (vii) testify in his or her own defence or to remain silent;
- (f) understands that the Court is not obligated to accept the plea agreement; and
- (g) was offered an improper inducement to enter into plea discussions or conclude a plea agreement.

(4) If a victim impact statement is filed with the Court, the Court shall consider the views expressed in the victim impact statement before accepting or rejecting a plea agreement and the Court may accept or reject all or any part of a victim impact statement.

(5) An accused person may, with leave of the Court, cross-examine the victim on the contents of his victim impact statement, to the extent that the Court allows.

(6) Where a victim impact statement contains information that—

- (a) is not permitted under section 14; or
- (b) in the discretion of the Court should not be included in a victim impact statement,

the Court may rule the information is inadmissible and direct that it be redacted from the victim impact statement.

Plea agreement not binding on the Court.

25. (1) The Court may reject a plea agreement entered into between the prosecutor and the accused person if the Court considers that it is in the interest of justice to do so.

(2) Notwithstanding subsection (1), where the Court makes a determination that there was an improper inducement offered to the suspect or accused person, the Court shall reject the plea agreement.

(3) Where a Judge or Magistrate rejects a plea agreement under subsection (1), the Judge or Magistrate shall—

- (a) in open Court, inform the accused person of his right to be tried again before another Judge or Magistrate;
- (b) within seven days of the rejection of the plea agreement, provide written notification to the Director of Public Prosecutions and the accused person of the reasons for rejecting the plea agreement; and
- (c) list the matter for trial.

(4) The rejection of a plea agreement by a Court shall not operate as a bar to the conduct of any subsequent plea discussions and plea agreement.

Procedure when a plea agreement is accepted.

26. If the Court accepts the plea agreement, the accused person shall plead to the charge.

Accused's withdrawal from plea agreement.

27. (1) If an accused person withdraws from the plea agreement and fails to enter a plea of guilty at a plea agreement hearing in the High Court, the Judge may—

- (a) send the case back to the Magistrate's Court for the conduct of committal proceedings where the matter was transferred to the High Court under section 22(1)(b); or

(b) adjourn the matter for listing in the High Court within thirty days.

(2) If a case is sent back to the Magistrate's Court under subsection (1), committal proceedings shall commence before a new Magistrate as if the plea agreement had not been entered into.

PART V

GENERAL

28. (1) Subject to subsection (2), an accused person may appeal to the Court of Appeal against the Court's rejection of a plea agreement.

Accused person's right of appeal against rejection of plea agreement.

(2) The accused person shall give notice of appeal in the form set out as Form 9 in the Schedule within twenty-eight days of receiving written notification under section 25(2) of the Court's reasons for rejecting the plea agreement.

Form 9.
Schedule.

29. (1) The Director of Public Prosecutions may appeal to the Court of Appeal against the Court's rejection of a plea agreement.

Director of Public Prosecution's right of appeal against rejection of plea agreement.

(2) The Director of Public Prosecutions shall give notice of appeal in the form set out as Form 10 in the Schedule within twenty-eight days of receiving written notification under section 25(3) of the Court's reasons for rejecting the plea agreement.

Form 10.
Schedule.

30. The Court may, upon application by an accused person, allow the accused person to withdraw from the plea agreement at any time before sentence if—

Grounds for withdrawal from plea agreement.

- (a) it was entered into as a result of an improper inducement;
- (b) it was entered into as a result of a misrepresentation as to the substance or consequences of a plea agreement;
- (c) the prosecutor has breached the terms of the plea agreement; or

- (d) there are any other grounds upon which the plea agreement may be set aside by the Court in the interest of justice.

Application of prosecutor to set aside the plea agreement, conviction or sentence.

31. (1) Upon application by the Director of Public Prosecutions, the Court may set aside the plea agreement at any time before the sentence, if—

- (a) the prosecutor was, in the course of the plea discussions, wilfully misled by the accused persons or by his Attorney-at-law in some material respect;
- (b) the prosecutor was, induced to conclude the plea agreement by threats, force, bribery or any other means of intimidation or influence; or
- (c) there are any other grounds upon which the plea agreement may be set aside by the Court in the interest of justice.

(2) The Director of Public Prosecutions may appeal to the Court of Appeal, with leave of the Court of Appeal or a Judge thereof, against an accused person's conviction or sentence pursuant to a plea agreement where—

- (a) the prosecutor, in the course of plea discussions, was wilfully misled by the accused person or his Attorney-at-law in some material respect;
- (b) the prosecutor was induced to conclude the plea agreement by threats, force, bribery or any other means of intimidation or influence; or
- (c) there are any other grounds upon which the plea agreement may be set aside by the Court in the interest of justice.

(3) Where, in accordance with subsection (2), the Director of Public Prosecutions is granted leave to the Court of Appeal, the Director of Public Prosecutions shall give notice of Appeal in the form set out as Form 10 in the Schedule within twenty-eight days of the sentence passed.

32. The Court of Appeal may, upon application by either party, extend the time within which notice of appeal may be given by the Director of Public Prosecutions or the accused person.

Extension of time for filing notice of appeal.

33. Evidence of the following matters is not admissible in civil or criminal proceedings against the accused person who entered into a plea agreement or is a party to plea discussions:

Plea agreement inadmissible in criminal or civil Court.

- (a) an offer to enter into a plea agreement or a statement made in connection with the offer;
- (b) a statement made during plea discussions or a plea agreement hearing; or
- (c) a plea agreement or guilty plea, which is later withdrawn.

34. A Court may, in exceptional circumstances, upon application by either party or in its discretion, order that the records of plea discussions or a plea agreement be sealed, if the Court is satisfied that the sealing of the records is in the interest of justice and the Court shall give written reasons for the order.

Sealing of records.

35. The Minister may, by Order subject to negative resolution of Parliament, amend the Schedule.

Minister may amend Schedule.

36. The Rules Committee established by the Supreme Court of Judicature Act may, subject to negative resolution of Parliament, make rules for the purpose of this Act.

Regulations.

37. The Criminal Procedure (Plea Discussion and Plea Agreement) Act is repealed.

Repeal of Act No. 11 of 1999.

- 38.** (1) The repeal of the former Act does not invalidate—
- (a) a plea discussion initiated or concluded;
 - (b) a plea agreement concluded;
 - (c) a plea agreement hearing held;
 - (d) an existing matter or proceeding which has commenced or is pending before the Court;

Transitional and Savings.

(e) a right of appeal subsisting; and
(f) any document or form having effect,
under the former Act.

(2) Every plea discussion, plea agreement or plea agreement hearing and every matter and proceeding commenced under the former Act and pending or in progress immediately before this Act came into force may be continued, completed and enforced under the former Act.

UNOFFICIAL

SCHEDULE

FORM 1

Section 10(1).

*(This Form applies if the accused/defendant does not wish to be
represented by an Attorney-at-law)*

REPUBLIC OF TRINIDAD AND TOBAGO

**DECLARATION BY ACCUSED/DEFENDANT OF DESIRE
TO REPRESENT SELF IN PLEA DISCUSSIONS**

A.B.—The State/*Complainant*

v.

C.D.—The Accused/*Defendant*

WHEREAS the accused was on the day of..... 20..... charged with
the following offence(s):

- (a)
- (b)
- (c)
- (d)
- (e)

And as the prosecutor has informed me as to my right to representation by an
Attorney-at-law during plea discussions and I have informed the prosecutor of my
desire to represent myself.

And whereas I have voluntarily and of my free will agreed to enter into plea
discussions with the prosecutor and—

- (a) I have (elected/not elected) to have a third party of my choice be present
during plea discussions; and
- (b) I have not been induced, threatened or forced in any way to enter into plea
discussions.

Dated this day of, 20.....

(Signed)

(Signed)

.....
Prosecutor

.....
Accused/Defendant

Section 10(2).

FORM 1A

*(This Form applies if the suspect does not wish to be represented
by an Attorney-at-law)*

REPUBLIC OF TRINIDAD AND TOBAGO

**DECLARATION BY SUSPECT OF DESIRE TO
REPRESENT SELF IN PLEA DISCUSSIONS**

WHEREAS the Prosecutor has informed me as to my right to representation by an Attorney-at-law during plea discussions and I have informed the Prosecutor of my desire to represent myself.

And whereas I have voluntarily and of my free will agreed to enter into plea discussions with the Prosecutor and—

- (a) I have (elected/not elected) to have a third party of my choice be present during plea discussions; and
- (b) I have agreed to the plea discussions being recorded.
- (c) I have not been induced, threatened or forced in any way to enter into plea discussions.

Dated this day of, 20.....

(Signed)

(Signed)

.....
Prosecutor

.....
Suspect

CERTIFICATION OF THE JUSTICE OF THE PEACE

I,, Justice of the Peace for the County of, hereby certify that the above declaration was signed by the Prosecutor

(name of Prosecutor)

and the suspect

(name of suspect)

in my presence on theday of20.....

(Signed)

.....
Justice of the Peace

FORM 2

Section 17.

IMPACT STATEMENT FOR BUSINESS

The impact statement for business (ISB) gives you the opportunity to set out the impact that a crime has had on the business such as direct financial loss and wider impacts, e.g., operational disruption or reputational damage. The Court will take the statement into account when determining sentence.

In this statement you should not provide an opinion or recommendation on the sentence or sanctions that the Court should use. This is for the Court to decide. You should limit the information you give in this statement to the impact this particular crime has had on the business, rather than providing information on how any previous criminal activity may have affected the business (unless, for example, this crime results from the repeat offending of the same offender). You should not restate the facts of the offence or offer criticisms of the accused.

The business should consider carefully who to authorise as the representative to make the statement on its behalf. Once you have completed this form, you should return it to your police contact.

A person making an ISB on behalf of a corporation ("the duly authorised representative") shall be authorised to do so on its behalf. The duly authorised representative may be required to answer questions or be cross-examined on the ISB in Court.

The Prosecutor will be in touch to let you know the date of the first hearing date and at that stage, you will need to make or update your ISB through your duly authorised representative.

Name of Business Affected

Business Address

Contact Name

Telephone Number

Address

Police Officer Attending

1. Financial Impact.

2. Please check this box if the business suffered no financial losses as a result of this crime.

2.1 *Direct financial losses*

These could include but are not limited to:

- Assets lost or stolen
- Damage to buildings and property.

FORM 2—(Continued)

3. *Non-Financial Impact*

Please explain how the incident has had a non-financial impact on your business.

This could include:

- Reputational damage
- Physical injuries sustained by staff or customers

3.1 *Other, indirect financial costs*

These could include but are not limited to:

- Loss of custom
- Impact on consumer confidence
- Staff time
- Expenditure on security measures (e.g., physical infrastructure, IT)
- Medical expenses
- Costs of contractual staff

Please explain how your business has suffered an indirect financial loss as a result of the crime.

4. *Other Comments*

Please use this space to set out any further comments you wish to make about the impact of the crime on your business.

Declaration:

This statement [consisting of ____ page(s) signed by me] is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything which I know to be false, or do not believe to be true.

Signed.....

Date.....

FORM 3

Section 19(1).

*(This Form applies if the accused/defendant/suspect is represented
by an Attorney-at-law)*

REPUBLIC OF TRINIDAD AND TOBAGO

PLEA AGREEMENT

No.

A.B.—The State/*Complainant*

v.

C.D.—The Accused/*Defendant/Suspect*

WHEREAS the accused/defendant/suspect was on the day of
....., 20..... charged with the following offence(s):

- (a)
- (b)
- (c)
- (d)

And whereas a plea agreement was on the day of,
20..... concluded between the prosecutor and the Attorney-at-law for the
accused/defendant/suspect:

And whereas it was agreed that the accused/defendant/suspect shall plead guilty
to—

- (a)
- (b)
- (c)
- (d)
- (e)

and in consideration that the prosecutor shall take a certain course of action
mentioned hereunder:

L.R.O.

FORM 3—(Continued)

And whereas it was agreed that as a result of the accused/defendant/suspect pleading guilty to the said offence(s), the prosecutor shall take the following course of action:

- (a)
- (b)
- (c)
- (d)
- (e)
- (f)
- (g)
- (h)
- (i)

Dated this day of, 20.....

(Signed)

(Signed)

.....
Prosecutor

.....
Attorney-at-law for the Accused/Defendant/Suspect

(Signed)

.....
Accused/Defendant/Suspect

FORM 4

Section 19(2)(a).

STATEMENT BY THE ACCUSED/DEFENDANT/SUSPECT

I have read this agreement and carefully discussed each paragraph with my Attorney-at-law. I understand the terms of this agreement and agree to it without reservation. I voluntarily and of my free will agree to those terms. I am pleading guilty to the charge(s). My Attorney-at-law has advised me of my rights, of possible defences, of the penalties and of the consequences of entering into this agreement. No promises, agreements, understanding or inducements have been made to me other than those contained in this agreement. No one has threatened or forced me in any way to enter into this agreement. I have had sufficient time to confer with my Attorney-at-law concerning the plea agreement. I am satisfied with the representation of my Attorney-at-law in this matter.

.....
Name of Accused/Defendant/Suspect

.....
Date

FORM 5

Section 19(2)(b).

**STATEMENT BY THE ATTORNEY-AT-LAW
REPRESENTING THE ACCUSED/DEFENDANT/SUSPECT**

I am the Attorney-at-law for
Name of the Accused/Defendant/Suspect

I have read this agreement and carefully discussed each paragraph of this agreement with my client. Further, I have fully advised my client of his rights, of possible defences (if applicable), of the penalties and of the consequences of entering into this agreement. To the best of my knowledge and belief, my client's decision to enter into this agreement is an informed and voluntary one.

.....
*Name of the Attorney-at-law
representing the Accused/Defendant/Suspect*

.....
Signature

.....
Date

L.R.O.

Sections
19(2)(c) and
20(2)(b).

FORM 6

INTERPRETER'S CERTIFICATE

I,, declare that I am
(Insert Name of Person Translating)

(Check one)

- a Licensed Court Interpreter as described in the Interpreter's Act, Chap. 6:54.
- appointed by a Court to act as Interpreter in respect of the plea discussions and plea agreement between A.B.—The State/*Complainant* v. C.D.—The Accused Person/*Defendant/Suspect*.

I am licensed/appointed by the Court to interpret and translate from the
..... language to the language.

I further declare that I have accurately translated the plea discussions between
A.B.—State/*Complainant* and C.D.—The Accused Person/*Defendant/Suspect* and the
attached Plea Agreement from the language to the
..... language.

I declare to the best of my abilities and belief, that this is a true and accurate
translation of the language text of the Plea
Agreement between A.B.—The State/*Complainant* and C.D.—The
Accused/*Defendant/Suspect*.

.....
Signature of Interpreter

.....
Date

FORM 7

Section 20(1).

*(This Form applies if the accused/defendant/suspect is not
represented by an Attorney-at-law)*

REPUBLIC OF TRINIDAD AND TOBAGO

PLEA AGREEMENT

No.

A.B.—The State/*Complainant*

v.

C.D.—The Accused/*Defendant/Suspect*

WHEREAS the accused/defendant/suspect was on the day of
....., 20..... charged with the following offence(s):

(a)

(b)

(c)

(d)

And whereas the prosecutor informed the accused/defendant/suspect that he should
be represented by an Attorney-at-law:

And whereas the accused/defendant/suspect informed the prosecutor that he did not
wish to be represented by an Attorney-at-law and declared, *inter alia* before a Justice
of the Peace his desire to represent himself and (to elect/to not elect) to have a third
party of his choice be present during plea discussions:

And whereas the accused/defendant/suspect also declared, before a Justice of
the Peace, *inter alia*, that he was informed of his right to be represented by an
Attorney-at-law and that he desired to represent himself and (to elect/to not elect) to
have a third party of his choice be present during plea discussions:

And whereas the accused/defendant/suspect agreed to have the plea discussions
recorded:

L.R.O.

FORM 7—(Continued)

And whereas a plea agreement was on the day of, 20.....
concluded between the prosecutor and the accused/defendant/suspect:

And whereas it was agreed that the accused/defendant/suspect shall plead guilty to—

- (a)
- (b)
- (c)
- (d)
- (e)
- (f)

in consideration that the prosecutor would take a certain course as mentioned hereunder:

And whereas it was agreed that as a result of the accused/defendant/suspect pleading
guilty to the said offence(s), the prosecutor shall take the following course of action:

- (a)
- (b)
- (c)
- (d)
- (e)
- (f)
- (g)
- (h)
- (i)

Dated this day of, 20.....

(Signed)

(Signed)

.....
Prosecutor

.....
Accused/Defendant/Suspect

CERTIFICATION OF JUSTICE OF THE PEACE

I,, Justice of the Peace for the
County of, hereby certify that the above plea
agreement was signed by the Prosecutor, and the
(name of Prosecutor)
accused/defendant/suspect in my
(name of Accused/Defendant/Suspect)
presence on the.....day of....., 20.....

(Signed)

.....
Justice of the Peace

FORM 8

Section 21(2).

**APPLICATION FOR LISTING PLEA
AGREEMENT HEARING**

A.B.—The State/*Complainant*

v.

C.D.—The Accused Person/*Defendant/Suspect*

COURT DETAILS:

Court
Division
Registry
Case Number

TITLE OF PROCEEDINGS:

A.B.—The State/*Complainant* v. C.D.—The Accused Person/*Defendant/Suspect*

FILING DETAILS:

Person seeking hearing:
Contact Name and Address:

L.R.O.

FORM 8—(Continued)

PERSON AFFECTED BY HEARING SOUGHT:
ORDER SOUGHT:

Case be listed for a plea agreement hearing

.....
Signature

.....
Date

Section 28(2).
207/2018.

FORM 9

**FORM OF NOTICE OF APPEAL IF APPELLANT IS
THE ACCUSED/DEFENDANT/SUSPECT**

REPUBLIC OF TRINIDAD AND TOBAGO

To: A.B.

Registrar of the Court

Take notice that I (C.D.) aggrieved by
an order of rejection of plea agreement of

.....
....., dated

against me the said..... for having as therein alleged on the
..... day of (here state briefly the order of
rejection of plea agreement) do appeal against such order of rejection of plea
agreement on the ground(s) that (state grounds).

Dated thisday of, 20.....

.....
C.D. or his Attorney-at-law

FORM 10

Sections 29(2)
and 31(2).
[207/2018].

**FORM OF NOTICE OF APPEAL OF THE DIRECTOR
OF PUBLIC PROSECUTIONS**

REPUBLIC OF TRINIDAD AND TOBAGO

To: A.B.

Registrar Court

TAKE NOTICE THAT I, (C.D.),

*was aggrieved by an order of rejection of a plea agreement of, dated

(state briefly the order of rejection of plea agreement)/.....

*in the course of plea discussions, was wilfully misled by the accused/was induced
to conclude the plea agreement (briefly state reason)/

*have cause to believe that the plea agreement should be set aside in the interest of
justice on the ground that

(*Delete as applicable)

and do appeal the matter on the aforementioned ground(s).

Dated this day of, 20.....

.....
C.D.