

ANTI-GANG

ACT NO. 4 OF 2021

Act
***4 of 2021**

*(See Note on page 2)

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Note on Subsidiary Legislation

This Chapter contains no subsidiary legislation.

Note on Act No. 4 of 2021

Act No. 4 of 2021 took effect on 5th May 2021 by LN 126/2021.

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ANTI-GANG

ARRANGEMENT OF SECTIONS

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ACT NO. 4 OF 2021

ANTI-GANG ACT

An Act to make provision for the maintenance of public safety and order through discouraging membership of criminal gangs and the suppression of criminal gang activity and for other related matters.

*[ASSENTED TO 27TH APRIL 2021]

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

**PART I
PRELIMINARY**

- Short title. 1. This Act may be cited as the Anti-Gang Act.
- Commencement. 2. This Act came into operation on 5th May 2021.
- Interpretation. 3. In this Act—
- Ch. 16:01. “ammunition” has the meaning assigned to it in section 2 of the Firearms Act;
- “child” means a person under the age of eighteen years;
- “firearm” has the meaning assigned to it in section 2 of the Firearms Act;
- “gang” means a combination of two or more persons, whether formally or informally organised, who engage in gang-related activity;
- “gang leader” means a person who initiates, organises, plans, finances, directs, manages or supervises a gang;
- “gang member” means a person who belongs to a gang, or associates himself with a gang-related activity;
- “gang-related activity” means any of the offences listed in the First Schedule which a gang leader or gang member plans, directs, orders, authorises, or requests including—
- First Schedule. (a) an attempt to commit the offence;

*See section 2 for the date on which this Act came into force (LN 126/2021).

(b) the aiding, abetting, counselling or procuring of the offence; or

(c) conspiracy to commit the offence;

“law enforcement authority” means—

(a) the Police Service established under the Police Service Act; Ch. 15:01.

(b) the Customs and Excise Division established under the Customs Act; Ch. 78:01.

(c) the Board of Inland Revenue established under the Income Tax Act; Ch. 75:01.

(d) the Defence Force established under the Defence Act; Ch. 14:01.

(e) the Prison Service established under the Prison Service Act; Ch. 13:02.

(f) a constable as defined under the Supplemental Police Act; Ch. 15:02.

(g) Special Reserve Police established under the Special Reserve Police Act; Ch. 15:03.

(h) the Municipal Police Service established under the Municipal Corporations Act; Ch. 25:04.

(i) the Police Complaints Authority established under the Police Complaints Authority Act; Ch. 15:05.

(j) the Strategic Services Agency established under the Strategic Services Agency Act; and Ch. 15:06.

(k) any other agency of the State in which investigative powers, similar to those exercisable by a police officer appointed under the Police Service Act, are lawfully vested;

“prohibited weapon” has the meaning assigned to it in section 2 of the Firearms Act;

“recruit” includes procure, lure, solicit, incite or induce; and

“school” includes a community residence as defined under the Children’s Community Residences, Foster Care and Nurseries Act, recreation ground or park, or an establishment for the conduct of technical or vocational training, or educational, sporting or social programmes, designed for children. Ch. 46:04.

Evidence in
relation to a
gang.

4. For the purpose of this Act, it shall not be necessary to show that a particular gang possesses, acknowledges or is known by a common name, insignia, flag, means of recognition, secret signal or code, creed, belief, structure, leadership or command structure, method of operation or criminal enterprise, concentration or specialty, membership, age or other qualification, initiation rites, geographical or territorial situs, boundary or location, or other unifying mark, manner, protocol or method of expressing or indicating its membership when the gang's existence can be demonstrated by other admissible evidence, but evidence which reasonably shows or demonstrates the existence of, or membership in, a gang shall be admissible in an action or proceedings brought under this Act including—

- (a) whether the person has admitted that he is a gang leader or gang member;
- (b) evidence that the person is or has associated or been involved with a gang with the intent to facilitate the commission of a gang-related activity or to promote, further or assist in the gang-related activity;
- (c) evidence of criminal activity by the person that indicates a link or involvement with the gang;
- (d) evidence that the person knowingly assisted in or in any way facilitated the concealment, transportation or disposal of anything of evidentiary value relating to gang-related activity;
- (e) evidence that the person knowingly concealed or shared in the proceeds of gang-related activity;
- (f) any statement made or information given, distributed or communicated by that person on behalf of, or in the name of, the gang; or
- (g) any statement made by, or on behalf of the person, whether orally or in writing, and published or otherwise distributed by him or on his behalf, indicating involvement in the commission of a crime by the gang.

PART II
OFFENCES

5. (1) A person who—
- (a) is a gang leader;
 - (b) is a gang member;
 - (c) performs an act as a condition for membership in a gang; or
 - (d) professes to be a gang leader or a gang member in order to—
 - (i) gain a benefit for himself or another person;
 - (ii) intimidate other persons; or
 - (iii) promote a gang,

Gang membership.

commits an offence.

(2) A person who commits an offence under subsection (1)(a) is liable on conviction on indictment to imprisonment for twenty-five years.

(3) A person who commits an offence under subsection 1(b), (c) or (d) is liable on—

- (a) summary conviction to imprisonment for ten years; or
- (b) conviction on indictment to imprisonment for twenty years.

(4) Where a member of a law enforcement authority or a person involved in intelligence gathering commits an offence under this section, he is liable on conviction on indictment to imprisonment for twenty-five years.

(5) A gang leader or gang member who, with intent—

- (a) wounds or causes grievous bodily harm to; or
- (b) to do some grievous bodily harm, shoots at,

a member of a law enforcement authority or a person involved in intelligence gathering, commits an offence and is liable on conviction on indictment to imprisonment for thirty years.

Coercing or encouraging gang membership.

6. A person who coerces, encourages, entices, aids or abets another person to be a gang leader or gang member commits an offence and is liable on conviction on indictment to imprisonment for twenty-five years.

Retaliatory action.

7. (1) A person shall not intentionally take any retaliatory action against another person or any of that other person's relatives, friends, associates or property, on account of that other person—

- (a) refusing to become a gang leader or gang member;
- (b) ceasing to be a gang leader or gang member;
- (c) giving information to a law enforcement authority or an intelligence agency in relation to a gang, gang leader, gang member or gang-related activity;
- (d) assisting in an investigation of a gang, gang leader, gang member or gang-related activity;
- (e) giving evidence in the prosecution of a gang leader or gang member;
- (f) refusing to comply with an order of a gang leader or gang member;
- (g) refusing to participate in retaliatory action against another person or any of that other person's relatives, friends, associates or property; or
- (h) refusing to provide funding or resources to a gang leader, gang member or gang.

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

(3) For the purposes of this section, "relative" means, in relation to a person—

- (a) his parent, step-parent or guardian;
- (b) his spouse, cohabitant or fiancé;

- (c) his child, step-child or other dependant;
- (d) his brother, sister, step-brother or step-sister;
- (e) his grandparent;
- (f) his father-in-law, mother-in-law, brother-in-law or sister-in-law; or
- (g) any other person responsible for the person's care and support.

8. A person who knowingly—

- (a) counsels;
- (b) gives instruction or guidance to;
- (c) finances in any manner; or
- (d) otherwise provides support to,

Counselling a gang.

a gang leader, gang member or gang in furtherance of its participation in, involvement in or commission of a gang-related activity commits an offence and is liable on conviction on indictment to imprisonment for twenty-five years.

9. A person who prevents a gang leader or gang member from leaving a gang commits an offence and is liable on conviction on indictment to imprisonment for twenty-five years.

Preventing gang leader or gang member from leaving gang.

10. (1) A person who—

- (a) uses a bullet-proof vest, firearm, ammunition, or prohibited weapon; or
- (b) has in his possession a bullet-proof vest, firearm, ammunition, or prohibited weapon which he knows or ought reasonably to know would be used,

Possession of bullet-proof vest, firearm, ammunition or prohibited weapon for gang-related activity.

in the commission of a gang-related activity, commits an offence and is liable on conviction on indictment to imprisonment for fifteen years.

(2) It is a defence for a person charged with an offence under subsection (1)(b) if he proves that he did not know or

could not reasonably have known that the bullet-proof vest, firearm, ammunition, or prohibited weapon in his possession would be used in the commission of a gang-related activity.

Harbouring a gang member.

11. (1) A person who knowingly harbours a gang leader or a gang member commits an offence and is liable on summary conviction to imprisonment for ten years or on conviction on indictment to imprisonment for twenty years.

(2) For the purposes of subsection (1), where—

- (a) the gang leader or gang member is a child; and
- (b) the person convicted is the parent or is acting in *loco parentis* of the child,

the Court, in sentencing the person convicted, shall take into consideration mitigating factors such as efforts made by the person convicted to reform or rehabilitate the child.

Concealing a gang leader or gang member.

12. A person who knowingly conceals—

- (a) a gang leader or a gang member; or
- (b) a gang-related activity,

commits an offence and is liable on summary conviction to imprisonment for fifteen years or on conviction on indictment to imprisonment for twenty-five years.

Recruiting a gang member.

13. (1) A person who recruits another person to a gang commits an offence and is liable—

- (a) on summary conviction to imprisonment for ten years; or
- (b) on conviction on indictment to imprisonment for twenty years.

(2) A person who recruits a child to a gang commits an offence and is liable—

- (a) on summary conviction to imprisonment for fifteen years; or
- (b) on conviction on indictment to imprisonment for twenty-five years.

- (3) Notwithstanding subsection (2), a person who—
- (a) on the premises of a school or a place of worship; or
 - (b) within five hundred metres of a school or a place of worship,

recruits a child to a gang commits an offence and is liable on conviction on indictment to imprisonment for twenty-five years.

14. (1) A person who—

- (a) knows or suspects that a police officer or any other officer of a law enforcement authority is acting, or is proposing to act, in connection with an investigation which is being, or is about to be, conducted into an offence under this Act; and
- (b) discloses to any other person information or any other matter which is likely to prejudice that investigation, or proposed investigation,

Tipping-off.

commits an offence and is liable on conviction on indictment to a fine of one hundred thousand dollars and to imprisonment for twenty years.

(2) Nothing in subsection (1) makes it an offence for a professional legal adviser to disclose any information or other matter—

- (a) to, or to a representative of, a client of his in connection with the giving by the adviser of legal advice to the client; or
- (b) to any person—
 - (i) in contemplation of, or in connection with, legal proceedings; and
 - (ii) for the purpose of those proceedings.

(3) Subsection (2) does not apply in relation to any information or other matter which is disclosed with a view to furthering any criminal purpose.

(4) It is a defence for a person charged with an offence under subsection (1) if he proves that he did not know or suspect that the disclosure was likely to be prejudicial to the investigation or proposed investigation.

PART III

POWERS OF POLICE OFFICERS

Police powers
of entry, search
and arrest.

15. (1) A police officer may arrest without a warrant a person whom he has reasonable cause to believe is a gang leader or gang member or who he has reasonable cause to believe has committed an offence under this Act.

(2) A Magistrate may issue a warrant to a police officer authorising the police officer to enter and search a dwelling house where the Magistrate is satisfied by evidence on oath that there is reasonable ground for believing that there may be found in the dwelling house a gang leader, gang member or a person whom the Magistrate has reasonable cause to believe has committed an offence under this Act.

(3) A police officer may with consent enter and search a place or premises not used as a dwelling house including a building, ship, vessel, carriage, box or receptacle, if he has reasonable cause to believe that a gang leader, gang member or a person whom he has reasonable cause to believe has committed an offence under this Act may be found in that place or premises.

(4) Where a person refuses to give consent under subsection (3), a police officer may apply for a warrant to search a place or premises not used as a dwelling house if he has reasonable cause to believe that a gang leader, gang member, or a person whom he has reasonable cause to believe has committed an offence under this Act may be found in that place or premises.

(5) A Magistrate may issue a warrant to a police officer authorising the police officer to enter and search a place or premises not used as a dwelling house if he has reasonable cause to believe that a gang leader, gang member, or a person whom he has reasonable cause to believe has committed an offence under this Act may be found in that place or premises.

16. (1) Notwithstanding any law to the contrary, a police officer may, without a warrant, detain for a period not exceeding forty-eight hours, a person whom he has reasonable cause to believe—

Detention of persons.

- (a) has committed, is about to commit or is committing; or
- (b) has interfered with an investigation of, an offence under this Act without charging him for the offence.

(2) The time from which the period of detention is to be effective shall be the time at which the person is arrested and detained.

(3) Where a person is detained under subsection (1), the police officer who made the detention shall, without delay—

- (a) inform the person of the grounds for his detention;
- (b) record the grounds for his detention in the Station Diary; and
- (c) provide an extract of the entry in the Station Diary made under paragraph (b) to the person detained or his Attorney-at-law.

(4) Where the police officer under subsection (3) has reasonable grounds to believe that the continued detention of the person beyond forty-eight hours without charge is necessary to—

- (a) obtain, secure or preserve evidence relating to an offence under this Act;
- (b) prevent interference with an investigation of an offence under this Act; or
- (c) prevent the commission of an offence,

the police officer may, within seventy-two hours of the person's initial detention, apply *ex parte* to a Judge, in the form set out in the Second Schedule, for a detention order and the application shall be supported by evidence on oath.

(5) A Judge may grant a detention order under subsection (4) for the further detention of the person named in the application if he is satisfied that there are reasonable grounds to believe that—

- (a) the further detention of the person to whom the application relates is justified; and
- (b) the investigation is being conducted diligently and expeditiously.

(6) The period for which a detention order may be granted under subsection (5) shall be such period as the Court thinks fit, having regard to the evidence before it, but the period shall end not later than seven days after the time of the arrest and detention.

(7) A person detained in accordance with subsection (5) may make an application to a Judge showing cause why the detention order should be discharged.

PART IV

FORFEITURE OF PROPERTY

Forfeiture
pursuant to
conviction.

17. (1) Where a person is convicted of an offence under this Act, the Court may order that any property—

- (a) used for, or in connection with; or
 - (b) obtained as a result of, or in connection with,
- the commission of the offence, be forfeited to the State in accordance with the Proceeds of Crime Act.

Ch. 11:27.

(2) Where property is forfeited to the State under this section, the Court may give directions as to the storage, investment and disposal of the property.

(3) For the purposes of this section, “property” means real or personal property, whether within or outside the territory and includes—

- (a) a right, interest, title, claim, chose in action, power, privilege, whether present or future and

- whether vested or contingent, in relation to property, or which is otherwise of value;
- (b) a conveyance executed for conveying, assigning, appointing, surrendering, or otherwise transferring or disposing of immovable property whereof the person executing the conveyance is proprietor or possessed or wherein he is entitled to a contingent right, either for his whole interest or for a lesser interest;
 - (c) a monetary instrument;
 - (d) any other instrument or securities;
 - (e) any business;
 - (f) a vehicle, boat, aircraft or other means of conveyance of any description; and
 - (g) any other tangible or intangible property.

PART V

MISCELLANEOUS

18. The Minister with responsibility for national security may by Order subject to negative resolution of Parliament, amend the Second Schedule. Amendment of Second Schedule.

19. (1) The Minister with responsibility for national security may make Regulations generally for the better carrying out of the provisions of this Act. Regulations.

(2) Regulations made under subsection (1), shall be subject to affirmative resolution of Parliament.

(3) Notwithstanding section 63 of the Interpretation Act, a person who contravenes Regulations made under this section commits an offence and is liable on summary conviction to a fine of two hundred and fifty thousand dollars and to imprisonment for seven years. Ch. 3:01.

***20. (Omitted).**

*Section 20 has been omitted as it contained consequential amendments to the Proceeds of Crime Act, Chap. 11:27, which have been duly incorporated into the respective Act.

(Section 3).

FIRST SCHEDULE

GANG-RELATED ACTIVITY OFFENCES

1. Possession of imitation firearms in pursuance of a criminal offence.
2. Larceny of a motor vehicle.
3. Arson.
4. Receiving stolen goods.
5. Being a gang leader or a gang member.
6. Coercing or encouraging gang membership.
7. Preventing a gang leader or gang member from leaving gang.
8. Counselling a gang leader, gang member or gang.
9. Possession of bullet-proof vest, firearm, ammunition or prohibited weapon for benefit of gang.
10. Harboursing a gang leader or gang member.
11. Concealing a gang leader, gang member or gang-related activity.
12. Recruiting a gang member.
13. Threatening to publish with intent to extort.
14. Demanding money with menaces.
15. Murder.
16. Shooting or wounding with intent to do grievous bodily harm, unlawful wounding.
17. Robbery, robbery with aggravation, robbery with violence.
18. Assault occasioning actual bodily harm.
19. Possession and use of a firearm or ammunition with intent to endanger life.
20. Possession of a firearm or ammunition without licence, certificate or permit.
21. Trafficking in a dangerous drug or being in possession of a dangerous drug for the purpose of trafficking.
22. Rape.
23. Grievous sexual assault.

24. Kidnapping.
25. Kidnapping for ransom.
26. Knowingly negotiating to obtain a ransom.
27. Offences under the Anti-Terrorism Act.
28. Offences under the Proceeds of Crime Act.
29. Offences under the Prevention of Corruption Act.
30. Offences under the Trafficking in Persons Act.
31. Misbehaviour in public office.
32. Offences under the Gambling and Betting Act.
33. Attempting to blow up a building with the intent to do any bodily injury to any person.
34. Manslaughter.
35. Hijacking.
36. Hostage-taking.
37. Causing or inciting prostitution.
38. Controlling a child prostitute.
39. Causing or inciting a child to engage in sexual activity.
40. Offences relating to dangerous drugs under the Children Act.
41. Offences relating to child pornography under the Children Act.
42. The keeping or management of a brothel.
43. Detention of a person in a brothel.
44. Procuration for the purposes of prostitution.
45. Living on the earnings of prostitution.
46. Meeting a child following sexual grooming.
47. Conspiracy to defraud the State.
48. Forcible Entry and Forcible Detainer under the Trespass Act.

[Section 16(4)].

SECOND SCHEDULE

APPLICATION FOR DETENTION ORDER

Republic of Trinidad and Tobago

In the County of

I,
(name of applicant) *(office of applicant)*

hereby apply under section 16(4) of the Anti-Gang Act for a
Detention Order against
(name of person detained)

a person detained in police custody since
.....
(date and time of detention)

in connection with
(details of person's alleged conduct)

*[sections 16(4), 16(5) and 16(6) of the Anti-Gang Act provide the grounds
upon and period for which a Judge may make a Detention Order]*

The grounds of the application are—

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

Certificate of truth

I swear to the best of my knowledge, information and belief that the contents of this application are true.

Signed:
(Name of applicant)

Dated the day of 20.....

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