

THE BAILIFFS ACT, 2000

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SCHEDULE

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Fifth Session Fifth Parliament Republic of Trinidad
and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 58 of 2000

[L.S.]

AN ACT to provide for licensing of Bailiffs and for
other related matters

[Assented to 13th October, 2000]

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

1. This Act may be cited as the Bailiffs Act, 2000. Short title
2. This Act comes into force on such date as is fixed Commencement
by the President by Proclamation.

Interpretation

3. (1) In this Act—

“accountant” means a person who has at least five years experience in the field of accountancy;

“bailiff” means a person who is employed to carry out the functions of a bailiff under the Petty Civil Courts Act or the Landlord and Tenant Ordinance;

“employed” includes self-employed;

“licence” means a licence issued under section 6(1);

“Ministry” means the Ministry of the Attorney General;

“prescribed” means prescribed by regulations made under section 15;

“public service bailiff” means a bailiff who is employed in the Public Service;

“Register” means the Register of Bailiffs mentioned in section 4(1);

“Registrar” means the Registrar, or a Deputy or Assistant Registrar of the Supreme Court.

(2) This Act does not apply to a Marshal of the Supreme Court.

Register of Bailiffs

4. (1) The Registrar shall keep a register, to be known as the Register of Bailiffs, in which he shall enter the names of all the persons whose applications for registration he has approved.

(2) The Registrar shall have the custody of the Register and of all documents relating to it and shall allow any person to inspect the Register during office hours without payment of any fee.

(3) The Register shall be divided into three Parts and the Registrar shall cause to be entered in Part I of the Register the names of public service bailiffs, in

Chap. 4:21

Ch. 27, No. 16
(1950 Rev.)

Part 2 of the Register the names of the other bailiffs, and in Part 3 of the Register the photographs and other material particulars of each bailiff.

5. (1) Subject to subsection (3), the Registrar shall, ^{Registration} upon application in writing, cause to be registered in the Register the name of every person who—

- (a) immediately before the commencement of this Act was employed as a public service bailiff;
- (b) on or after the commencement of this Act, becomes employed, or is offered a contract of employment, as a bailiff.

(2) A person who is employed as a bailiff before the commencement of this Act shall make an application for registration under subsection (1) within three months of the commencement of this Act.

(3) The Registrar may refuse to register a person as a bailiff unless the Registrar is satisfied that the person has complied with section 6(1) and—

- (a) is of good character;
- (b) is a person over the age of eighteen years;
- (c) was or is employed, or offered a contract of employment, as a bailiff; and
- (d) in the case of a person who is not a public service bailiff, has passed a written examination and an interview which would be conducted by the Ministry,

and the Registrar may for the purpose require the person to produce such documents or records as the Registrar thinks fit.

(4) For the purpose of satisfying the requirement of subsection (3)(a), a person shall submit to the Registrar a certificate of good character from the police and two references, one of these being from the list of persons listed in the requirement as referees for a passport.

(5) Where a person applies for a licence under this Act, the Registrar shall cause to be published notice of the application in all daily newspapers at least once in two consecutive weeks asking any person who objects to the application to lodge with the Registrar their objections not later than fourteen days after the date of the last publication failing which the Registrar is entitled to grant the licence to the applicant.

Licences

6. (1) The Registrar shall, on entering the names of any person in the Register and, subject to subsection (4), upon payment of—

- (a) the prescribed fee; and
- (b) the prescribed security,

issue to the person a licence to carry out the functions of a bailiff and the licence shall remain in force for two years unless suspended or cancelled.

(2) A licence shall be a laminated card bearing the seal of the Supreme Court, the photograph, name, address and date of birth of the bailiff and the date on which the licence expires.

(3) Subject to subsection (4), upon payment of the prescribed fee, the Registrar shall renew any licence which is not suspended or cancelled.

(4) A public service bailiff is exempt from the payment of fees and security under this section.

(5) The Registrar shall, as soon as practicable after 1st January and 1st July in each year, cause to be published in the *Gazette* and in at least two daily newspapers circulating in Trinidad and Tobago the name of each person who holds, on each of those dates, a valid licence.

Suspension and
cancellation of
licences

7. (1) The Registrar may—

- (a) in the case of a public service bailiff, on the advice of the Public Service Commission;

(b) in the case of any other bailiff, after receiving a report under section 11 or after due inquiry and on such grounds as he thinks proper, including incompetence or irresponsibility,

suspend or cancel the licence of the bailiff.

(2) If it appears to the Registrar on reasonable grounds to be expedient or in the public interest, the Registrar may suspend the licence of a bailiff pending the results of an inquiry which shall be instituted into the matter immediately by the Registrar.

(3) The Registrar, when proposing to suspend or cancel a licence, shall serve notice of the proposal, together with written reasons thereof, on the bailiff, informing him of an entitlement to a hearing within fifteen days after the notice is served on him.

(4) Where a bailiff requires a hearing by the Registrar in accordance with subsection (3), the Registrar shall appoint a time for and hold the hearing and upon completion of the hearing may either carry out or refrain from carrying out the proposal.

(5) Each suspension or cancellation of a licence and each termination of such suspension shall be noted in the appropriate place of the Register and the Registrar shall cause a notice thereof to be published in the *Gazette* and in at least two daily newspapers circulating in Trinidad and Tobago.

(6) Where the licence of a bailiff is suspended or cancelled, the bailiff shall surrender his licence to the custody of the Registrar who shall—

- (a) in the case of a suspension, return the licence to the bailiff upon the termination of the suspension; or
- (b) in the case of a cancellation, destroy the licence after the bailiff has unsuccessfully exhausted all means of redress available to him.

(7) A bailiff who fails, without reasonable excuse, to comply with subsection (6) commits an offence and is liable on summary conviction to a fine of five thousand dollars and to imprisonment for three months.

Bailiffs to be licensed

8. (1) No person shall engage in business as a bailiff unless he is licensed under this Act and is in possession of his licence.

(2) A person who carries out any function of a bailiff—

- (a) without a licence;
- (b) while his licence is suspended; or
- (c) after his licence is cancelled,

commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for six months, and in the case of a second or subsequent offence to a fine of twenty-five thousand dollars and to imprisonment for two years.

Functions and duties
of a bailiff

9. (1) The functions of a bailiff under this Act are to—

- (a) levy execution in accordance with a judgment of a Judge of the Petty Civil Court;
- (b) serve documents from a court of summary jurisdiction;
- (c) levy tenant's goods for arrears of rent as provided for under the Landlord and Tenant Ordinance; and
- (d) repossess goods on hire purchase in accordance with the Hire Purchase Act.

Chap. 82:33

(2) The functions listed in subsection (1)(a) and (b) shall be performed exclusively by a public service bailiff and the other functions listed in subsection (1)(c) and (d) shall be performed exclusively by any other bailiff.

(3) A bailiff shall not serve any process or levy any execution on a public holiday, except in case of urgency with leave of the court.

(4) No person shall engage in business as a bailiff while an employee of or engaging in the business of a debt collection agency.

(5) A bailiff shall notify the Registrar in writing of any change in the address of his place of business.

(6) Every bailiff shall keep and maintain books of accounts in accordance with accepted principles of accounting and shall obtain an audit of his books of account and financial transactions annually by an accountant.

(7) Every bailiff shall furnish the Registrar with a financial statement in such form and at such times as the Registrar may require.

(8) A bailiff shall not charge any costs or fees other than those prescribed.

9A. The immunities, privileges and protection accorded to bailiffs under the Petty Civil Courts Act shall apply to bailiffs registered and licensed under this Act.

Protection of bailiffs
Chap. 4:21

10. (1) No bailiff shall enter any premises for the purposes of carrying out any of his functions unless he shows his licence and gives a signed copy of the form as set out in the Schedule to the occupier of, or other adult person on, the premises together with a signed or certified copy of the document upon which he has the authority to perform his function on that occasion.

Bailiff to show
licence before
entering premises

(2) Without prejudice to the suspension or cancellation of his licence under this Act, a bailiff who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for one year.

Loss and stolen
licences

11. (1) A bailiff shall report the loss or theft of his licence to the police and to the Registrar immediately, and the Registrar shall cause a note to that effect to be entered in the Register.

(2) The Registrar shall, upon the payment of the prescribed fee, issue to the bailiff whose licence has been reported loss or stolen, a temporary licence which shall be valid for the unexpired period of the loss or stolen licence.

Complaints

12. (1) A person who has a complaint against a bailiff may make the complaint in writing in the prescribed form to a Judge of the Petty Civil Court for the district in which the act complained of is alleged to have taken place, and for the purposes of this section “district” has the meaning assigned to it in section 2 of the Petty Civil Courts Act.

(2) The Judge of the Petty Civil Court shall investigate the complaint and shall forward the complaint, together with the results of the investigation, to—

(a) in the case of a public service bailiff, the Public Service Commission; or

(b) in the case of any other bailiff, the Registrar.

Judicial review

13. (1) A person who is aggrieved by a decision of the Registrar may apply to the High Court for judicial review.

(2) A person aggrieved by a decision of the High Court under subsection (1) is entitled to appeal that decision to the Court of Appeal.

(3) Where the Registrar cancels or suspends the licence of a bailiff and he applies to review the decision of the Registrar under this section, he shall not perform the business of a bailiff until the application is determined in his favour.

14. (1) A bailiff other than a public service bailiff^{Training} before being licensed under this Act shall attend a training programme organised by the Ministry designed—

- (a) to promote better understanding of the functions and duties of bailiffs;
- (b) to assist bailiffs to carry out their functions more effectively and efficiently;
- (c) to give bailiffs an opportunity to share the experiences and to discuss ways of improving their technical skills.

(2) The Ministry shall organise and conduct training programmes for all bailiffs at least once every year which all bailiffs shall attend.

(3) The Registrar may suspend the licence of a bailiff who fails to comply with subsection (1) until such time as the bailiff attends a training programme.

(4) Every bailiff shall submit to the Registrar a copy of the training certificate obtained under subsection (1) as soon as possible but not later than one month from the date he receives it, and where a bailiff fails to comply with this requirement, the Registrar is entitled to suspend, cancel or deny a renewal of the licence of that bailiff.

15. The President may make regulations—

^{Regulations}

- (a) prescribing a code of conduct for bailiffs which may include provisions specifying acts or omissions for which the suspension or cancellation of a licence would be appropriate;
- (b) prescribing the maximum fees to be charged by bailiffs;

- (c) prescribing and regulating the security to be required from bailiffs for the due performance of their duties and for accounting for moneys received;
- (d) prescribing the rules and procedures to be followed by bailiffs seeking to gain entry to premises for the due performance of their duties;
- (e) for anything required by this Act to be prescribed; and
- (f) generally for giving effect to this Act.

Consequential
amendments

16. (1) Sections 37 and 38(a) and (b) of the Landlord and Tenant Ordinance are repealed.

(2) The Bailiff Rules are revoked.

(3) Notwithstanding subsections (1) and (2), those subsections shall not come into force until regulations under section 15 are made.

THE SCHEDULE

[Section 10(1)]

REPUBLIC OF TRINIDAD AND TOBAGO

THE BAILIFFS ACT, 2000

(Act No. of 2000)

FORM TO BE GIVEN BY BAILIFF TO OCCUPIER OF/OR
ADULT PERSON ON PREMISES VISITED.....
Name of Bailiff.....
Address of Bailiff.....
Licence Number.....
Name of owner of/or adult person on premises visited.....
Address of premises visited.....
Date and time of visit.....
Purpose of visit.....
Signature of bailiff.....
*Signature of owner of/or adult
person on premises visited*

Passed in the Senate this 29th day of August, 2000.

N. COX
Clerk of the Senate

Passed in the House of Representatives this 20th day
of September, 2000.

D. DOLLY
Acting Clerk of the House

House of Representatives amendments agreed to by
the Senate this 3rd day of October, 2000.

N. COX
Clerk of the Senate