

LAWS OF TRINIDAD AND TOBAGO

BAILIFFS ACT

CHAPTER 4:61

Act
58 of 2000
Amended by
14 of 2001

Current Authorised Pages

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BAILIFFS ACT

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SCHEDULE.

CHAPTER 4:61

BAILIFFS ACT

58 of 2000. **An Act to provide for licensing of Bailiffs and for other related matters.**

*[ASSENTED TO 13TH OCTOBER, 2000]

Short title. **1.** This Act may be cited as the Bailiffs Act.

Commencement. **2.** This Act came into operation on 30th June, 2001.
[68/2001].

Interpretation. **3.** (1) In this Act—
[14 of 2001].

“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;

Ch. 4:21.
Ch. 27. No. 16.
(1950 Rev. Ed.).

“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 Trinidad and Tobago, Deputy Marshals, Second Deputy Marshals and Marshal Assistants.

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.

* See section 2 for date of commencement of this Act.

(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 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, upon application in writing, cause to be registered in the Register the name of every person who—

Registration.
[14 of 2001].

- (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 nine 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.

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,

Suspension and
cancellation of
licences.

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.

Ch. 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.
Ch. 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.

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.

Loss and stolen licences.

(2) The Registrar shall, upon the payment of the prescribed fee, issue to the bailiff whose licence has been reported lost 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.
- Ch. 4:21. (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.
- Training. **14.** (1) A bailiff other than a public service bailiff 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.

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 (1) Sections 37 and 38(a) and (b) of the Landlord and Tenant Ordinance are repealed.

Consequential amendments.
Ch. 27, No. 16.
(1950 Rev. Ed.).

(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.

Validation of certain actions. [14 of 2001].

17. Notwithstanding any law to the contrary, any action taken by a bailiff under this Act from September 30, 2001 to the date of commencement of the Bailiffs (Amendment) Act, 2001 (i.e. June 30, 2001) which may be found to be unlawful due to the non-registration of a bailiff in accordance with section 5 of this Act is deemed to have been lawfully and validly performed and no legal proceedings whether pending or not shall be entertained in respect of the lawfulness or validity of such action.

[Section 10(1)].

SCHEDULE

REPUBLIC OF TRINIDAD AND TOBAGO

THE BAILIFFS ACT

(Ch. 4:61)

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

SUBSIDIARY LEGISLATION

BAILIFFS REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation.
2. Scope of “material particulars”.
3. Notice of examination.
4. Referee.
5. Licence.
6. Licence fee.
7. Bailiff’s fee.
8. Security.
9. Complaint.
10. Notice for training.
11. Bailiff to submit return.
12. Code of Conduct.

FIRST SCHEDULE.

SECOND SCHEDULE.

THIRD SCHEDULE.

FOURTH SCHEDULE.

FIFTH SCHEDULE.

170/2002.

BAILIFFS REGULATIONS

made under section 15

- Citation. **1.** These Regulations may be cited as the Bailiffs Regulations.
- Scope of
"material
particulars". **2.** For the purpose of section 4(3), "material particulars" include the private and business addresses and telephone number of a bailiff, the number of the licence issued to him, its date of issue and expiry, and where necessary, the date and reasons for cancellation, suspension or revocation of the licence.
- Notice of
examination. **3.** A notice specifying the date of the written examination referred to in section 5(3) shall be published at least thirty days before the date appointed for the examination.
- Referee.
First Schedule. **4.** For the purpose of section 5(4), a person holding any of the positions listed in the First Schedule may be a referee.
- Licence.
Second
Schedule. **5.** An application for a bailiff's licence shall be in the form prescribed in the Second Schedule.
- Licence fee. **6.** (1) The fee for a bailiff's licence shall be five hundred dollars.

 (2) The fee for a temporary licence shall be one hundred and fifty dollars.
- Bailiff's fee. **7.** (1) The fee to be charged by a bailiff for levying distress and sale of goods shall not exceed twenty-five per cent of the arrears of rent or the arrears due on a hire purchase agreement.

 (2) The fee provided for in subregulation (1) does not include the expenses to be incurred by a bailiff to enable him to carry out the levy and sale.
- Security.
Third Schedule. **8.** The security to be provided by a bailiff shall be by way of a bond prescribed in the Third Schedule.

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Bailiffs Regulations

[Subsidiary]

9. A person who has a complaint against a bailiff may make the complaint in the form set out in the Fourth Schedule.

Complaint.
Fourth
Schedule.

10. A notice stating the date and time for the training programme to which section 14(2) refers shall be published in the *Gazette* and in at least two daily newspapers circulating in Trinidad and Tobago.

Notice for
training.

11. (1) A bailiff levying distress shall make a return to the Magistrate of the Petty Civil Court of the District in which the levy is made within three days after levy, setting out the date and place of levy and a detailed list of the goods levied upon.

Bailiff to submit
return.

(2) Where a sale takes place a bailiff shall prepare and render within seven days a detailed account of his receipts, fees and expenses to the Magistrate who may disallow any item improperly so charged and in such case may order the bailiff to refund the amount thereof to the person entitled to receive the balance of the proceeds of the sale.

12. A bailiff shall adhere to the Code of Conduct prescribed in the Fifth Schedule.

Code of
Conduct.
Fifth Schedule.

(Regulation 4).

FIRST SCHEDULE

PERSONS LISTED AS REFEREES

The following persons may be referees for the purpose of section 5(4):

- (a) Minister of Religion registered under law to perform marriages;
 - (b) Managing Director, Director or Manager of a commercial bank or a registered company (Endorsement of Official Stamp necessary);
 - (c) Professionals (University Graduates);
 - (d) Member of Parliament, Mayor or Councillor;
 - (e) Notary Public, Justice of the Peace or Commissioner of Affidavits;
 - (f) Senior Public Servant (above Range 30);
 - (g) Police Officer (Corporal and above rank);
 - (h) Fire Sub-Officer and above rank;
 - (i) Prison Cadet Officer and above rank;
 - (j) Member of Defence Force (Corporal or Leading Seamen and above rank); or
 - (k) Graduate Teacher—School Principal, Vice-Principal, Lecturer.
-

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Bailiffs Regulations

[Subsidiary]

SECOND SCHEDULE

(Regulation 5).

APPLICATION FORM

I.....
(Name of Applicant)

of
(Business Address of Applicant)

do hereby apply to be licensed under the Bailiffs Act, (Ch. 4:61). My date of birth
is.....
(d/ m/ y)

I may be contacted at:

Business Telephone Number

Facsimile Number

E-mail Address

Dated this day of, 20

.....
Signature of Applicant

Identification: National I.D.; or

Driver's Permit; or

Passport

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Bailiffs

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Bailiffs Regulations

(Regulation 8).

THIRD SCHEDULE

REPUBLIC OF TRINIDAD AND TOBAGO

RECOGNISANCE FOR BAILIFFS

KNOW ALL MEN BY THESE PRESENTS that

.....
(Name of bailiff in block letters)

of
(Address of bailiff in block letters)

and
(Name of surety in block letters)

of
(Address of surety in block letters)

are held and firmly bound unto the State in the sum of five thousand (\$5,000.00) dollars for which payment well and truly to be made we bind ourselves, and our heirs, executors and administrators firmly of these presents.

Dated thisday of, 20..... .

.....
Signature of surety

.....
Signature of bailiff

The within-bounded
(Name of bailiff in block letters)

has been granted a licence to function as a bailiff untill
(Date of expiration of the
bailiff's licence)

and whereas it is a condition of granting the said licence that the said
.....
(Name of bailiff in block letters)

shall enter the obligation hereunder expressed.

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Bailiffs Regulations

[Subsidiary]

Now the condition of the above-written bond or obligation is that if the said

.....
(Name of bailiff in block letters)

shall during the period of his licence and so long as he remains a licensed bailiff duly and regularly account for and pay to his principal for this purpose all monies he receives less such charges as may be authorised by law, and faithfully performs his duties and obligations which by law are required to be done then this recognisance shall be void but otherwise the same shall remain in full force and effect.

Signed by the within-named bailiff,
and surety,
at,, on the
..... day of, 20.....

.....
(Bailiff)

.....
(Surety)

Before me,

.....
*Commissioner of Affidavits/
Justice of the Peace*

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Bailiffs

[Subsidiary]

Bailiffs Regulations

(Regulation 9).

FOURTH SCHEDULE

COMPLAINT FORM

I.....
(Name of complainant)

of.....
(Address of complainant)

do hereby notify the Judge of the Petty Civil Court of the Magisterial District of
.....that.....
(Name of bailiff)

of.....
(Address of bailiff)

has.....
(Briefly state the nature of the complaint)

Dated this day of, 20

.....
Signature of Complainant

FIFTH SCHEDULE

(Regulation 12).

CODE OF CONDUCT FOR BAILIFFS

1. A bailiff shall exemplify high standards of integrity and honesty in the performance of his duties and responsibilities.
2. A bailiff shall refrain from any conduct which is detrimental to the office of a bailiff or which may tend to discredit the office or bring it into disrepute.
3. A bailiff shall, within the law, defend with due diligence and to the best of his ability the rights and interests of those who require his services.
4. A bailiff shall not render any service involving—
 - (a) disloyalty to the State;
 - (b) disrespect for any judicial office;
 - (c) corruption of any person exercising public or private trust; and
 - (d) deception or betrayal of the public.
5. When a fellow bailiff has been asked or requested to look into a matter, another bailiff shall not knowingly become involved in that matter.
6. A bailiff shall not intentionally or wilfully disseminate false or misleading information in respect of a fellow bailiff.
7. A bailiff shall at all times be courteous, co-operative and respectful to—
 - (a) legal and judicial officers;
 - (b) police officers, and to other members of the Protective Services;
 - (c) any member of the Public Service; and
 - (d) members of the public.
8. A bailiff shall respect the views and opinions of fellow bailiffs and co-operate with his colleagues whenever his professional services are sought.
9. A bailiff shall not wilfully use any document so as to deceive any person or to pervert the course of justice.
10. A bailiff by his deportment, his demeanour, dress, conduct, and general behaviour, in both his public and private life, shall seek to command

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Bailiffs

[Subsidiary]

Bailiffs Regulations

the respect and admiration of his colleagues and the public and shall also exemplify by such deportment the honour and dignity of the profession.

11. A bailiff shall exercise honesty, objectivity and diligence in the performance of his duties and responsibilities.
12. A bailiff shall refrain from entering into any activity which may be in conflict with the interest of his trade or which would prejudice his ability to carry out objectively his duties and responsibilities.
13. A bailiff shall undertake only those services which he can reasonably expect to complete with professional competence and within his function and authority.
14. A bailiff shall be prudent in the use of information acquired in the course of his duties, and he shall not use confidential information for any personal gain nor in any manner which would be contrary to law.
15. A bailiff shall when reporting on results of his work, reveal all material facts known to him which, if not revealed, could either distort reports of the operation under review or conceal unlawful practices.
16. A bailiff shall continually strive for improvement in proficiency, effectiveness and quality of his service.
17. A bailiff shall not use abusive or obscene language while in the performance of his duties.
18. A bailiff shall not engage in any violence, except in self-defence, while in the performance of his duties.
19. A bailiff shall not levy for arrears of rent or repossess goods on any premises between the hours of 6.00 p.m. to 6.00 a.m.
20. A bailiff shall not levy or repossess goods on hire purchase on any private premises in the absence of any adult eighteen years or over, unless otherwise provided by law.
21. A bailiff shall not sell levied goods before the expiration of five working days after levy, and the sale shall be only by public auction, unless otherwise provided for by law or order of the Court.
22. A bailiff shall not sell levied goods to members of his family or to himself.

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Bailiffs Regulations

[Subsidiary]

23. A bailiff shall not perform the functions of a bailiff without the presence of a police officer or a member of the Special Reserve Police Service if he believes that a breach of the peace will occur.
24. A bailiff shall not break and enter any premises to repossess goods under the Hire Purchase Act unless he is in possession of a judgment issued by a Court of summary jurisdiction to so do.
25. Every bailiff shall comply with this Code of Conduct.