
Fourth Session Tenth Parliament Republic of
Trinidad and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 11 of 2014

[L.S.]

AN ACT to amend the Administration of Justice (Deoxyribonucleic Acid) Act, 2012, the Jury Act, Chap. 6:53, the Criminal Offences Act, Chap. 11:01, the Dangerous Drugs Act, Chap. 11:25, the Indictable Offences (Preliminary Enquiry) Act, Chap. 12:01, the Young Offenders Detention Act, Chap. 13:05 and the Police Service Act, Chap. 15:01

[Assented to 10th September, 2014]

WHEREAS it is provided by section 13(2) of the Preamble Constitution, that an Act of Parliament to which this section applies is one the Bill for which has been passed

by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House:

And whereas it is necessary and expedient that the provisions of this Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution:

Enactment	ENACTED by the Parliament of Trinidad and Tobago as follows:
Short title	1. This Act may be cited as the Miscellaneous Provisions (Administration of Justice) Act, 2014.
Act inconsistent with Constitution	2. This Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution.

PART I

ADMINISTRATION OF JUSTICE (DEOXYRIBONUCLEIC ACID)

Act No. 5 of 2012 amended	3. The Administration of Justice (Deoxyribonucleic Acid) Act is amended—
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(a) in section 4—

(i) by inserting in the appropriate alphabetical sequence, the following definitions:

“DNA Record” means a record either in textual or electronic format, that is kept in every place or institution which collects DNA samples, containing a record of every sample taken; and

“exonerated” in relation to a person means—

(a) a person who has been found not guilty by a

court at trial in relation to a particular offence;

(b) a person who was charged with an offence and had his charges dismissed in relation to that particular offence; or

(c) a person who has been otherwise discharged from criminal liability in relation to a particular offence;”;

(ii) in the definition of “intimate sample”, by inserting after the words “specimen of” the words “venous blood, or”;

(iii) in the definition of “non-intimate sample” in paragraph (a), by deleting the words “prick of the finger” and substituting the words “pin prick”;

(iv) by inserting after the definition of “police officer”, the following definition:

“ “private security officer” means a person licensed

under any written law to provide security services including—

- (a) static or patrol services;
- (b) property for hire;
- (c) p r i v a t e investigations;
- (d) immobilisation of vehicles;
- (e) carrying out duties of selling, installing, repairing or servicing any electronic or mechanical security systems; or
- (f) monitoring or surveillance services,

to safeguard the physical welfare of any person, property or asset;”;

and

- (v) by deleting the definition of “qualified person” and substituting the following definition:

“ “qualified person” means—

- (a) a registered medical practitioner under the Medical Board Act;

Chap. 29:53

(b) an advanced practice nurse registered under Part II of the Nurses and Midwives Registration Act; or

(c) a person registered under Part II or Part III of the Nurses and Midwives Registration Act, acting under the supervision of a registered medical practitioner;”;

(b) in section 5(2), by deleting all the words after the word “samples”;

(c) in section 10—

(i) by renumbering section 10 as section 10(1);

(ii) in subsection (1) as renumbered, by inserting after paragraph (a), the following paragraphs:

“(aa) have sole custody and control of the Forensic DNA Databank;

(ab) have sole custody of all DNA profiles received by him for uploading unto the Forensic DNA Databank;

(ac) determine the suitability of DNA profiles for uploading onto the Forensic DNA Databank; and

(iii) by inserting after subsection (1) as renumbered, the following subsections:

“ (2) The Custodian or any person acting under and in accordance with his general or special instructions under subsection (3) shall be deemed to be a Government expert for the purposes of the Evidence Act.

Chap. 7:02

(3) The functions of the Custodian under this section may be exercised by him in person or through other persons acting under and in accordance with his general or special instructions.”;

(d) in section 13(3), by inserting after the word “witness”, the words “who shall certify having witnessed the taking of the sample in the form set out as Form 1A in the Second Schedule”;

(e) by inserting after section 13, the following section:

“Notice to attend for giving a DNA sample 13(A). Where a police officer is required to serve a summons on a person to appear before a court as a defendant in a criminal case, the police officer may also serve on the

person a Notice requiring that person to attend on such date and time and at such place as specified in the Notice for the purpose of giving a DNA sample.”;

(f) in section 14(7), by inserting after the word “witness”, the words “who shall certify having witnessed the taking of the sample in the form set out as Form 1A in the Second Schedule”;

(g) in section 15—

(i) by repealing subsection (2) and substituting the following subsection:

“ (2) A person specified in the
Fourth Schedule shall make
arrangements for the taking
of a non-intimate sample by a
qualified person, from a
Third Schedule person specified in the Third
Schedule.”; and

(ii) in subsection (3), by inserting after the words “the Third Schedule”, the words “and the Fourth Schedule”;

(h) by deleting section 16(1) and substituting the following section:

Non-intimate sample to be taken from deported citizens 16(1). Where a citizen of Trinidad and Tobago is deported from any place from outside of Trinidad and Tobago, a non-intimate sample shall be taken from that citizen without

his consent upon his arrival in Trinidad and Tobago by a qualified person at any port of entry.”;

(i) in section 17(3), by—

- (i) deleting the words “or a” and substituting the word “,”; and
- (ii) inserting after the word “person”, the words “, appropriately trained staff of the Trinidad and Tobago Forensic Science Centre or a first responder trained in crime scene sample collection”;

(j) in section 20—

- (i) by renumbering section 20 as section 20(1); and
- (ii) by inserting after subsection (1) as renumbered, the following subsection:

“ (2) Where a sample is taken under subsection (1), the person taking the sample shall complete and submit the form set out as Form 6 in the Second Schedule.”;

Second
Schedule

(k) in section 23—

- (i) in subsection (1), by deleting the words “police officer or qualified person who takes a sample from a person” and substituting the words “a person who takes a sample”;

- (ii) in subsection (2)(a), by deleting the words “police officer or qualified”; and
 - (iii) in subsection (2)(b), by deleting all the words after the word “record” and substituting the words “such information as may be prescribed by Regulations.”;
- (l) by inserting after section 23, the following section:

23A. (1) In every place or
“DNA Record” institution where DNA samples are collected, a record entitled “DNA Record” shall be kept in which it shall be recorded every instance in which a sample is taken at such place or institution.

(2) The procedures for the keeping of the DNA Record shall be prescribed by Regulations.”;

(m) in section 24—

- (i) subsection (1), by—
 - (A) deleting the words “Subject to subsection (2), a” and substituting the word “A”; and
 - (B) deleting the words “to the Commissioner of Police” and substituting the words “in accordance with subsections (2), (2A) and (2B).”;

- (ii) subsection (2), by inserting after the words “a Court”, the words “and that sample was taken and submitted by a police officer”; and
- (iii) by inserting after subsection (2), the following subsections:

“ (2A) A Forensic DNA Analyst shall submit a certificate of analysis that is prepared in respect of a sample taken—

- (a) by a qualified person; and
- (b) in relation to a matter under investigation or before the Court,

to the relevant investigating police officer, the Court or the relevant parties before the Court and a copy of the certificate of analysis shall be submitted to the relevant qualified person.

(2B) A Forensic DNA Analyst shall submit a certificate of analysis that is prepared in respect of a sample taken—

- (a) for the purpose of applying for employment as a person listed in the Third Schedule; or
- (b) from a person specified in the Third Schedule,

to the Custodian, who shall keep all certificates of analysis received by him strictly confidential and secured, unless he is required to disclose that certificate of analysis, pursuant to any written law or Order of the Court.”;

(n) by repealing section 25 and substituting the following section:

^{“Retention of sample} 25. (1) Subject to subsections (2), (3) and (4), where a sample is not destroyed during Forensic DNA analysis, the Trinidad and Tobago Forensic Science Centre shall keep the sample for a minimum period of five years from the date on which the analysis was completed and thereafter the sample may be destroyed.

(2) N o t w i t h s t a n d i n g subsection (1), a Court may order that a non-intimate or intimate sample that has been taken under this Act, shall not be destroyed, if the Court is satisfied that the sample might reasonably be required for the investigation or prosecution of an offence or for the purposes of an appeal.

(3) N o t w i t h s t a n d i n g subsection (1), the Trinidad and

Tobago Forensic Science Centre shall, within three months after the end of each calendar year, provide the Commissioner of Police and the Director of Public Prosecutions with a list of any samples which it proposes to destroy.

(4) Where the Commissioner of Police after consultation with the Director of Public Prosecutions does not object to the destruction of a sample on a list referred to in subsection (3) within three months of receiving the list, the Trinidad and Tobago Forensic Science Centre shall destroy the sample.”;

(o) in section 26, by repealing subsections (11) and (12) and substituting the following subsections:

“ (11) Notwithstanding section 7(2), where a sample is taken from a person who is exonerated, the DNA profile derived from that sample shall be destroyed and expunged from the Forensic DNA Databank, after the expiration of twenty years from the date of exoneration.

(12) Notwithstanding the destruction of a sample under section 25, where a DNA profile is retained from the period of the

destruction of the sample to the twenty-year period at subsection (11), the profile is deemed to be the profile related to the sample destroyed and the profile may be used as evidence in any matter involving the person to whom the profile relates.”;

(p) in section 29—

(i) by inserting after subsection (1), the following subsection:

“ (1A) A Forensic DNA Analyst may disclose findings contained in certificates of analysis only when required to do so pursuant to—

(a) an Order of the Court;

(b) this Act; or

(c) any other written law.”;

(ii) in subsection (2), by deleting the words “subsection (1)” and substituting the words “subsections (1) and (1A)”;

(q) in the Second Schedule—

(i) in Form 1, by deleting all the words after the words “is being taken” in item 4 and substituting the following:

“ 5. The DNA sample voluntarily given will be analysed to create a DNA profile and such DNA profile may be checked against other DNA profiles in the Forensic DNA Databank.

I have read and understand the cautions given above.

Signed..... Date.....
Volunteer/Representative

Signed..... Date.....
Witness.”;

(ii) by inserting after Form 1, the following form:

“FORM 1A

(Sections 13 and 14)

REPUBLIC OF TRINIDAD AND TOBAGO

FORM OF WITNESS PRESENT AT THE TAKING OF A SAMPLE UNDER THE ADMINISTRATION OF JUSTICE (DEOXYRIBONUCLEIC ACID) ACT, 2012

I,
(Name of witness in block letters)

certify that I was present on day of, 20.....

together with,.....
(Name of person taking sample in block letters)

and
(Name of person from whom sample taken in block letters)

at.....
(Place at which sample taken)

and did see the said
(Name of person taking sample in block letters)

take a sample from
(Name of person from whom sample taken in block letters)

.....
Name of witness to taking of sample
Date”;

(iii) in Form 4—

(A) in the title of the Form, by deleting the words “POLICE OFFICER/QUALIFIED PERSON” and substituting the words “PERSON AND CHAIN OF CUSTODY OF SAMPLE”;

(B) by deleting all the words after the words “[Tick appropriate box]” and substituting the following:

“[] Name (*in block letters*) and signature, rank and service number of police officer taking sample:

Dated:

[] Name (in block letters) and signature, profession and place of employment of the qualified person taking sample:

Dated:

I certify that I received a container and the package holding the sample which was labelled and the package was intact and the seal was unbroken:

[] Name (in block letters) and signature and profession of officer of the Trinidad and Tobago Forensic Science Centre receiving sample.....

.....

Dated:

[] Name (in block letters) and signature, profession and place of employment of any other person having custody of the sample at any time.....

Dated:.....”;

(iv) by inserting after Form 5, the following form:

“FORM 6

(Section 20)

REPUBLIC OF TRINIDAD AND TOBAGO

RECORD OF TAKING OF SAMPLE FROM A CHILD OR AN INCAPABLE PERSON BY A POLICE OFFICER OR QUALIFIED PERSON IN THE PRESENCE OF A REPRESENTATIVE

INFORMATION OF PERSON FROM WHOM SAMPLE IS TAKEN:

Name:

Address:

Date of birth:

Gender of the person:

Type of sample: Non-intimate/Intimate [tick as appropriate]

Person from whom sample is taken [tick as appropriate]—

[] a child

[] an incapable person

Date taken:

In the presence of:

[Name in block letters and signature of representative of child or incapable person and relationship to child or incapable person]

INFORMATION TO BE COMPLETED BY PERSON TAKING SAMPLE:

I certify that both the container and the package holding the sample are labelled and sealed:

.....

The information on the label affixed to the container and the label affixed to the package:

.....

.....

.....

The nature of the sample:

[Tick appropriate box]

Name (in block letters) and signature, rank and service number of police officer taking sample:

.....

Dated:

Name (*in block letters*) and signature, profession and place of employment of the qualified person taking sample:

.....

Dated:

I certify that I received a container and the package holding the sample which was labelled and the package was intact and the seal was unbroken:

Name (in block letters) and signature, profession of officer of the Trinidad and Tobago Forensic Science Centre receiving sample:

.....

.....

Dated:”; and

(r) in the Third Schedule—

(i) in item 1, by—

(A) deleting the word “or” at the end of paragraph (f);

(B) inserting after paragraph (f), the following paragraph:

“(g) an Immigration Officer of the Immigration Division; or”;
and

(C) renumbering paragraph (g) as paragraph (h); and

(ii) in item 2, by inserting after the word “Centre” the words “and who is engaged in the collection or the receipt of samples or the conduct of forensic DNA analysis”;

(s) by inserting after the Third Schedule, the following Schedule:

“FOURTH SCHEDULE

(Section 15)

A non-intimate sample shall be taken by a qualified person, from a person specified in the Third Schedule, on the authority of the following persons in accordance with section 15(2) of the Administration of Justice (Deoxyribonucleic Acid) Act:

(a) the Commissioner of Police, in respect of the—

(i) police service;

(ii) special reserve police; and

(iii) supplemental police;

(b) the Chief Fire Officer, in respect of the Fire Service;

(c) the Commissioner of Prisons, in respect of the Prison Service;

(d) the Chief Officer, in respect of the Municipal Police Service;

FOURTH SCHEDULE—Continued

- (e) the Chief of Defence Staff, in respect of the Defence Force;
- (f) the Comptroller of Customs, in respect of the Customs and Excise Division;
- (g) the Chief Immigration Officer, in respect of the Immigration Division; and
- (h) the employer, in respect of a private security officer.”.

PART II

JURY

4. The Jury Act is amended—

Chap. 6:53 amended

- (a) in section 2—
 - (i) in the definition of “alternate juror”, by deleting the word “criminal”;
 - (ii) by inserting after the definition of “Reviser”, the following definition:
 - “ “special juror” means a juror selected under section 29;”;
 - and
 - (iii) by deleting the definition of “trial”;
- (b) by repealing section 4 and substituting the following section:

^{“Qualifications as a juror} 4. Every person shall be qualified to be a juror who—

- (a) is over the age of eighteen years and under the age of seventy years;
- (b) is ordinarily resident in Trinidad and Tobago;
- (c) was born in Trinidad and Tobago or, not being so born, has resided in Trinidad and Tobago for two years or more; and

- (d) is able to read and write the English language and understand the same when spoken.”;
- (c) in section 6, by deleting the words “sixty-five” wherever they occur and substituting in each place the word “seventy”;
- (d) in section 7, by deleting from the words “The spouses” to the words “constables.”;
- (e) by inserting after section 7, the following section:
- “Excuse from jury service 7A. A person qualified to be a juror shall be entitled, if he so wishes, to be excused from jury service if he is—
- (a) more than sixty-five years of age; or
- (b) the spouse of—
- (i) a Judge of the Supreme Court;
- (ii) a Magistrate or his Clerk;
- (iii) a Justice of the Peace; or
- (iv) an Attorney-at-law or his clerk.”;
- (f) by repealing section 8 and substituting the following section:
- “Qualification of special juror 8. (1) A person referred to in section 3 is qualified to serve as a special juror where he is qualified or experienced in—
- (a) finance;
- (b) banking;

- (c) accounting or forensic accounting;
- (d) business;
- (e) economics;
- (f) management;
- (g) securities; or
- (h) investment.

(2) Notwithstanding sections 3 and 7, the following persons shall not be excepted from the list of special jurors:

- (a) members of the Medical Board in actual practice;
- (b) licensed Pharmacists in actual practice as such;
- (c) school teachers;
- (d) employees of the Trinidad and Tobago Postal Corporation or officers of the Customs and Excise Division; and
- (e) Pilots who are licensed under the provisions of section 5 of the Pilotage Act.”;

Chap. 51:02

- (g) in section 9, by deleting from the words “manner—” to the end and substituting the words “manner whether that person is qualified as a special juror in accordance with section 8 and the nature of his qualifications or experience, as the case may be.”;

- (h) in section 11(1), by deleting the words “qualification referred to in section 9(a)” and substituting the words “qualifications or experience referred to in section 9”;
- (i) in section 12, by repealing subsection (2) and substituting the following subsections:
 - “ (2) The Reviser shall cause to be published that part of the lists containing only the name and gender of each person who is qualified to serve as a juror.
 - (3) The Reviser shall cause copies of the lists referred to in subsection (2)—
 - (a) to be affixed in such places as he may direct in order to give publicity to the list, together with a notice mentioning the place and time at which objections to the list will be heard; and
 - (b) to be published in the *Gazette* during the month of April in the year in which it was prepared.”;
- (j) in section 19(3), by deleting the word “criminal”;
- (k) by repealing section 22;
- (l) in section 26(1)—
 - (i) by deleting the words “nor allowed to separate or” and substituting the words “or allowed to”; and
 - (ii) by deleting the words “before the

jury consider their verdict, permit the jury to separate and go at large” and substituting the words “whether before or after the jury have been directed to consider their verdict, permit the jury to separate”;

(m) in section 28—

- (i) in subsection (3), by deleting the word “three” and substituting the word “four”; and
- (ii) in subsection (5), by deleting the words “or in the case of a civil trial to such special day as the Judge thinks fit,”;

(n) by repealing section 29 and substituting the following section:

“Special juries

29. The High Court may in any case triable by a jury, except indictments for any offence punishable with death, and in particular in any case concerning—

Chap. 11:27

- (a) complex fraud;
- (b) offences under the Proceeds of Crime Act;
- (c) financing of terrorism; and
- (d) offences under Part VII of the Securities Act, 2012,

order a special jury to be struck before the Marshal and every jury so struck shall be the jury returned for the trial.”;

- (o) in section 31, by deleting the words “qualification referred to in section 9(a)” and substituting the words “qualifications or experience referred to in section 9”;
- (p) by repealing section 32 and substituting the following section:

“ Empanelling
of special
juries 32. (1) Whenever the High Court orders a special jury to be struck, the Marshal shall appoint a time and place for the nomination of such special jury, and a copy of the order of the Court and of the appointment by the Marshal shall be served on the parties to the proceedings.

(2) At least ten days before the time and place appointed for the striking of the special jury, the Marshal shall provide the parties with the names of all persons named as special jurors in the list referred to in section 31.

(3) At the time and place appointed, the Marshal shall, in the presence of the parties—

- (a) draw from the names referred to in subsection (2) such a number as to amount to quadruple the number of jurors required for the trial under sections 19 and 21A; and
- (b) strike off from the list referred to in paragraph (a) such name as may be objected to by one or other of the parties

and replace such name with a name from the list referred to in section 31, such that the required quadruple number of names is kept.

(4) If the full quadruple number of special jurors cannot be obtained from the list referred to in section 31, the Marshal shall fairly and indifferently take from the Jurors Book such number of other names of jurors to make up the full quadruple number required under subsection (3) and these named jurors will be deemed special jurors for the purposes of the particular proceedings.

(5) Upon drawing the number of special jurors required under subsection (3), the Marshal shall strike off from this list of special jurors such number of names until the number is reduced to double the number required for the trial under sections 19 and 21A.

(6) If the appointment is attended by one party only, the Marshal shall, upon being satisfied that the absent party is aware of the appointment, act for such absent party in reducing the number of the special jurors as required in subsections (3), (4) and (5).

(7) No challenge shall be allowed in any case.

(8) The appointed special jury shall be the panel of special jurors for the trial of the case and may try any number of causes.

(9) The Court may, if it so thinks fit, upon the application of any person who has served upon one or more special juries at any sessions, discharge such person from serving upon any other special jury during the same sessions.”;

(q) by repealing section 33 and substituting the following section:

“Costs of special jury 33. The fees and expenses in relation to a special jury shall be borne by the State.”;

(r) in section 42(2), by deleting from the words “one thousand dollars” to the words “and imprisonment” and substituting the words “fifty thousand dollars and to imprisonment for one year”;

(s) in the Schedule to the Act, by deleting Form A and substituting the following Form:

“FORM A

LIST OF JURORS

List returned by A.B. Registration Officer for the registration area of of persons qualified to serve as jurors.

First name and Surname in full	Whether qualified as Special Juror	Gender
Caesar, Julius	S.J.	Male
Caesar, Julia	S.J.	Female
Cicero, Claudia		Female

Dated this day of , 20.....

Registration Officer for the Registration Area

of.....”; and

- (t) in the Schedule, in Form D—
 - (i) by deleting the word “Christian” and substituting the words “First name”; and
 - (ii) by deleting the words “section 4(1)(e)” and substituting the words “section 8(1).

PART III

CRIMINAL OFFENCES

5. The Criminal Offences Act is amended by—

Chap. 11:01
amended

(a) inserting after section 10, the following section:

“Obstruction
of justice

11. (1) In this section—

“officer of the Court” means an Attorney-at-law, a person employed at a court, a Justice of the Peace, or a member of the Trinidad and Tobago Police Service; and

“victim” means any person being intimidated, dissuaded or influenced.

(2) A person who knows, or reasonably believes that another person is assisting in the investigation of an offence or a witness or potential witness in any judicial proceeding, whether civil or criminal, and uses threats, force, bribery or any other means to—

- (a) intimidate or dissuade that other person from assisting in the investigation or giving evidence; or
- (b) influence that other person to give false evidence, withhold true evidence, not attend court as a witness, or not produce any document, record or other object in evidence,

commits an offence.

(3) A person who knows, or reasonably believes that another person is a juror, or potential juror in any proceeding and uses threats, force, bribery or any other means to—

- (a) intimidate or dissuade that other person from serving as a juror; or
- (b) influence any decision made by that other person during the judicial proceeding,

commits an offence.

(4) A juror who misconducts himself or yields to any improper influences in connection with the performance of his functions as a juror, commits an offence and is liable on conviction on indictment to a fine of fifty thousand dollars and to imprisonment for five years.

(5) A person who knows or reasonably believes that another person has—

- (a) assisted in the investigation of an offence;
- (b) given evidence in any judicial proceeding, whether civil or criminal; or
- (c) served as a juror and concurred in a particular verdict,

and does any act which injures, is intended to injure or causes that other person to fear injury because of his role in relation to paragraph (a), (b) or (c), commits an offence.

(6) Any person who uses threats, force, bribery or any other means to intimidate or influence—

- (a) a judicial officer; or
- (b) an officer of the court,

acting in performance of his duties in relation to any civil or criminal proceeding, commits an offence.

(7) In this section, it is immaterial that the threats, force, bribery or other conduct perpetrated by a person is done—

- (a) otherwise than in the presence of the victim; or

(b) to another person
other than the victim.

(8) A person who commits an offence under subsection (2), (3), (5) or (6) shall be liable on conviction on indictment to a fine of one hundred thousand dollars and to imprisonment for twenty years.”.

Chap. 11:26
amended

5A. Section 11 of the Kidnapping Act is repealed.

PART IV

DANGEROUS DRUGS

Chap. 11:25
amended

6. The Dangerous Drugs Act is amended in section 5(7B), by deleting the words “twenty-five thousand dollars and to imprisonment for five years” and substituting the words “fifty thousand dollars or, where there is evidence of the street value of the dangerous drug, three times the street value of the dangerous drug, whichever is greater, and to imprisonment for a term of ten years”.

PART V

INDICTABLE OFFENCES (PRELIMINARY ENQUIRY)

Chap. 12:01
amended

7. The Indictable Offences (Preliminary Enquiry) Act is amended in section 16, by inserting after subsection (5), the following subsection:

“ (6) Section 39(1) shall apply to any evidence contained in a certified transcript of a recorded electronic audio recording, video recording or Computer Aided Transcription under section 16(3), of the evidence given in a preliminary enquiry as it applies to a deposition taken in such proceedings, but in its application to any such deposition that subsection shall have effect as if paragraphs (b) and (c) thereof were omitted.”.

PART VI

YOUNG OFFENDERS DETENTION

8. The Young Offenders Detention Act is amended by Chap 13:05 amended repealing section 7(3).

PART VII

POLICE SERVICE

9. The Police Service Act is amended— Chap. 15:01 amended

(a) in section 3, by inserting in the appropriate alphabetical sequence, the following definitions:

“accused” means a person who is charged with an offence;

“detainee” means a person who has been arrested by the police in connection with a criminal offence;

“exonerated” in relation to a person means—

(a) a person who has been found not guilty by a court at trial in relation to a particular offence;

(b) a person who was charged with an offence and had his charges dismissed in relation to that particular offence; or

(c) a person who has been otherwise discharged from criminal liability in relation to a particular offence; and

“National Fingerprint Database” means the database established under section 50K(1);”.

(b) by repealing section 50 and substituting the following section:

“Power to
take
measurement
or photograph 50. (1) A police officer may take and record for the purpose of identification the measurement and photograph of a person who is a detainee or an accused.

(2) Where the measurement or photograph taken under subsection (1) is of a person who has not previously been convicted of a criminal offence, and such person is discharged or acquitted by a Court, all records relating to the measurement or photograph shall be kept by the Commissioner.”;

(c) by inserting after section 50, the following sections:

“Taking of
fingerprint
impression 50A. (1) A police officer may take and record for the purpose of identification the fingerprint impression of a person without consent—

(a) where the person is a detainee or an accused; or

(b) where—

(i) a fingerprint impression is derived from a crime scene; and

(ii) there are reasonable grounds for suspecting that the person was

involved in the commission of an offence related to the crime scene and believing that fingerprint analysis could confirm or disprove the suspicion.

(2) Where a fingerprint impression is taken as provided under subsection (1), the fingerprint impression shall be analysed.

(3) The data derived from the analysis under subsection (2) shall be kept and the Commissioner shall cause that data to be transferred to the National Fingerprint Database.

Retaking of
fingerprint
impression

50B. (1) Where at any time after the taking of a fingerprint impression under section 50A—

- (a) it is determined that the quality of the fingerprint impression is unsuitable or insufficient for analysis;
- (b) the fingerprint impression is lost or accidentally destroyed; or
- (c) the fingerprint impression cannot be used for any other reason,

a police officer may retake the fingerprint impression without consent.

(2) Notwithstanding the fact that the quality of a fingerprint impression is not suitable or sufficient, the fingerprint impression shall not be destroyed and the Commissioner shall cause that data to be transferred to the National Fingerprint Database.

Taking
fingerprint
impression of
certain
persons at
port of
entries
Chap. 18:01

50C. (1) At all ports of entry into Trinidad and Tobago, a police officer or an immigration officer under the Immigration Act shall take and record for the purpose of identification the fingerprint impression of—

- (a) a citizen of Trinidad and Tobago without the consent of the citizen, where the citizen has been deported from any place outside of Trinidad and Tobago; and
- (b) any person entering Trinidad and Tobago who is not a citizen of Trinidad and Tobago.

(1A) Notwithstanding subsection (1)(b), the Minister may by Order, exempt any person, citizens of a particular country, or categories of persons from being fingerprinted.

(2) Notwithstanding subsection (1)(b), the Minister may by Regulations, make provisions in relation to the taking, recording, storing,

retention and disposal of a fingerprint impression, on the entry of a person who is not a citizen into Trinidad and Tobago and such Regulations made under this section shall be subject to negative resolution of Parliament.

(3) Where fingerprint impressions are taken under this section, the fingerprint impressions shall be analysed.

(4) The Commissioner shall cause data derived from the analysis of the fingerprint impression under subsection (3) to be transferred to the National Fingerprint Database.

(5) A fingerprint impression collected and analysed under this section shall not be destroyed but shall be retained by the Commissioner.

(6) For the purpose of this section, “citizen of Trinidad and Tobago” and “port of entry” shall have the meanings assigned to them by the Immigration Act.

Notice to
attend for
fingerprinting

50D. (1) Where a police officer is required to serve a summons on a person to appear before a court as a defendant in a criminal case, the police officer may also serve on the person a Notice requiring that person to attend on such date and time and at such place as specified in the Notice for the purpose of giving a fingerprint impression.

(2) Where a fingerprint impression is taken under this section, the fingerprint impression shall be analysed.

(3) The Commissioner shall cause the data derived from the analysis of the fingerprint impression under subsection (2) to be transferred to the National Fingerprint Database.

(4) A fingerprint impression collected and analysed under this section shall not be destroyed but shall be retained by the Commissioner.

Taking of
fingerprint
impression
from child or
incapable
person

50E. (1) Where a fingerprint impression is to be taken under section 50A from a child or an incapable person, the fingerprint impression shall not be taken unless a representative of the child or the incapable person is present when the fingerprint impression is taken.

(2) Where a fingerprint impression of a child or an incapable person is taken, the fingerprint impression shall be analysed.

(3) The Commissioner shall cause the data derived from the analysis of the fingerprint impression under subsection (2) to be forwarded to the National Fingerprint Database.

(4) A fingerprint impression collected and analysed under this section shall not be destroyed but shall be retained by the Commissioner.

Sixth
Schedule

(5) The representative of a child or an incapable person under this section shall, upon the child or incapable person giving his fingerprint impression, sign the form set out as Form 1 in the Sixth Schedule.

(6) For the purposes of this section—

“child” means a person under the age of eighteen years;

“incapable person” means a person who, by reason of his physical or mental condition is unable to—

(a) indicate whether he consents or does not consent; or

(b) understand the implications of consenting or not consenting,

to the giving of his fingerprint; and

“representative” in relation to a child or an incapable person means—

(a) a parent or legal guardian;

(b) any person over the age of eighteen years who has the

c u s t o d y ,
charge or care
of the child or
i n c a p a b l e
person;

(c) an Attorney-
at-law;

(d) a qualified
social worker;

(e) a representative
of the
C h i l d r e n ' s
Authority; or

(f) a person
appointed by
the Court.

Reasonable
force to take
and protect
measure-
ment,
photograph,
or fingerprint
impression

50F. A police officer taking a measurement, photograph or fingerprint impression under sections 50A, 50B, 50C, 50D and 50E may use reasonable force to take and protect that measurement, photograph or fingerprint impression.

Refusing to
give
measurement,
photograph
or fingerprint
impression

50G. A person who refuses to give a measurement, photograph or fingerprint impression under section 50A, 50B, 50C or 50D commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for two years.

Resisting or
obstructing
police officer
in the
exercise of his
functions

50H. A person who resists or obstructs an officer in the exercise of his functions under section 50, 50A, 50B, 50C, 50D or

50E commits an offence under section 59 and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for two years.

Volunteering
to give a
fingerprint
impression

50I. (1) A police officer may take the fingerprint impression of any person who volunteers to give his fingerprint impression during an investigation for the purpose of analysis.

(2) Where a fingerprint impression is taken as provided under subsection (1), the fingerprint impression shall be analysed.

(3) The data derived from the analysis under subsection (2) shall be kept and the Commissioner shall cause that data to be transferred to the National Fingerprint Database.

(4) Where a person volunteers to give his fingerprint impression under subsection (1), he shall submit the form set out as Form 2 in the Sixth Schedule.

Retention of
fingerprint
impression

50J. (1) A fingerprint impression taken under section 50A, 50B, 50C, 50D, 50E or 50I shall be kept for a minimum period of five years from the date on which the data was entered into the National Fingerprint Database and thereafter the fingerprint impression may be destroyed.

(2) Notwithstanding subsection (1), a Court may order that a fingerprint impression that has been taken under this Act, shall not be destroyed if the Court is satisfied that the fingerprint impression might reasonably be required for the investigation or prosecution of an offence or for purposes of an appeal.

National
Fingerprint
Database

50K. (1) There is hereby established a database of analysed fingerprint impressions collected under this Act, to be known as the “National Fingerprint Database”.

(2) The Commissioner shall have control and custody of the National Fingerprint Database and shall, in accordance with this Act, add to and remove data from the National Fingerprint Database.

(3) Where a fingerprint impression is taken from a person who is exonerated, the data from the fingerprint impression shall be destroyed and removed from the National Fingerprint Database, after the expiration of twenty years from the date of exoneration.

(4) Notwithstanding the destruction of a fingerprint impression under section 50J, where data from a fingerprint impression is retained from the period of the destruction of the

fingerprint impression to the twenty-year period at subsection (3), the data from the fingerprint impression is deemed to be the data related to the fingerprint impression destroyed and the data may be used as evidence in any matter involving the person to whom the data relates.

Mutual Legal
Assistance
Chap. 11:24

50L. (1) Where the Central Authority under the Mutual Assistance in Criminal Matters Act is in receipt of a request for assistance from a country for which an Order under section 40(1) of that Act has been made, and such assistance is relevant to any data in the National Fingerprint Database, the Central Authority shall forward the request to the Commissioner.

(2) Upon receipt of a request under subsection (1), the Commissioner shall provide the Central Authority with the relevant data.

(3) Where the Commissioner is of the view that data exists in a database similar to the National Fingerprint Database in a country to which an Order under section 40(1) of the Mutual Assistance in Criminal Matters Act exists, in respect of an investigation for an offence committed in Trinidad and

Tobago, the Commissioner may request the Central Authority request from that country the relevant data.”;

- (d) in sections 51 and 52(3), by deleting the words “national database created by written law” and substituting the words “National Fingerprint Database”;
- (e) in section 72A, by deleting the words “national database created by written law” and substituting the words “National Fingerprint Database”; and
- (f) by inserting after the Fifth Schedule, the following Schedule:

“ SIXTH SCHEDULE

FORM 1

(Section 50E)

REPUBLIC OF TRINIDAD AND TOBAGO

RECORD OF TAKING OF FINGERPRINT IMPRESSION FROM
A CHILD OR AN INCAPABLE PERSON BY A POLICE
OFFICER IN THE PRESENCE OF A REPRESENTATIVE

INFORMATION OF PERSON FROM WHOM FINGERPRINT
IMPRESSION IS TAKEN:

Name:

Address:

Date of Birth:

Gender of the Person:

Person from whom impression is taken [tick as appropriate]—

a child

an incapable person

Date taken:

In the presence of :.....

(Name in block letters and signature of the
representative of a child or an incapable person and
the relationship to the child or an incapable person)

Signed.....
Representative

Date.....

Signed.....
Witness

Date.....

FORM 2

(Section 50E)

REPUBLIC OF TRINIDAD AND TOBAGO

VOLUNTEERING TO GIVE A FINGERPRINT IMPRESSION

Name:

Address:

Person from whom impression is taken [tick as appropriate]—

- a child
- an incapable person
- an adult

1. You are not obliged to volunteer your fingerprint impression.
2. The representative of a child or an incapable person shall be present when the fingerprint impression is taken.
3. The fingerprint impression voluntarily given will be analysed and added to the National Fingerprint Database and may be checked against other analysed fingerprint impressions in the National Fingerprint Database.

I have read and understood the statements contained above and hereby volunteer to give a fingerprint impression.

Signed..... Date.....
Volunteer

Signed..... Date.....
Representative

Signed..... Date.....”
Witness

PART VIII
IMMIGRATION

10. The Immigration Act is amended—

Chap. 18:01
amended

(a) in section 4, by inserting after subsection (2), the following subsection:

“ (3) Notwithstanding subsection (1), a citizen of Trinidad and Tobago who has been deported shall, on arrival in Trinidad and Tobago, have his fingerprint impression taken and recorded for the purpose of identification.”; and

(b) by inserting after section 4, the following section:

4A. Any person not being a citizen of Trinidad and Tobago who is permitted to enter Trinidad and Tobago shall, upon entering, have his fingerprint impression taken and recorded for the purpose of identification.”

“Taking of
fingerprint
impression
from a person
who is not a
citizen

PART IX
COMMENCEMENT

11. (1) Section 50C of the Police Service Act shall come into force on such date as the President may appoint by Proclamation.

Commencement of
section 50C of
Chap. 15:01 and
sections 4(3) and 4A
of Chap. 18:01

(2) Sections 4(3) and 4A of the Immigration Act shall come into force on such date as the President may appoint by Proclamation.

Passed in the House of Representatives this 16th day of June, 2014.

J. SAMPSON-MEIGUEL

Clerk of the House

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the House of Representatives and at the final vote thereon in the House has been supported by the votes of not less than three-fifths of all the members of the House, that is to say, by the votes of 26 members of the House.

J. SAMPSON-MEIGUEL

Clerk of the House

Passed in the Senate this 16th day of July, 2014.

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the Senate and at the final vote thereon in the Senate has been supported by the votes of not less than three-fifths of all the members of the Senate, that is to say, by the votes of 20 Senators.

N. ATIBA-DILCHAN

Clerk of the Senate

The Senate amendments were agreed to by the House of Representatives on this 28th day of July, 2014.

J. SAMPSON-MEIGUEL

Clerk of the House