

LAWS OF TRINIDAD AND TOBAGO

OFFENCES AGAINST THE PERSON ACT

CHAPTER 11:08

Act

10 of 1925

Amended by

2 of 1939

14 of 1939

28 of 1973

11 of 1979

19 of 1979

45 of 1979

3 of 1980

19 of 1985

27 of 1986

85 of 2000

90 of 2000*

*See Note on page 2

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LAWS OF TRINIDAD AND TOBAGO

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Chap. 11:08

Offences Against the Person

Note on Subsidiary Legislation

This Chapter contains no subsidiary legislation.

Note on Act No. 90 of 2000

This Act has been amended by the Offences Against the Person (Amendment) Act 2000, (Act No. 90 of 2000), but Act No. 90 of 2000 had not up to the date of the last revision of this Act been brought into operation.

Act No. 90 of 2000 has been appended to this Act as an Appendix.

CHAPTER 11:08

OFFENCES AGAINST THE PERSON ACT

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CHAPTER 11:08

OFFENCES AGAINST THE PERSON ACT

An Act relating to Offences against the person.

1950 Ed.
Ch. 4. No. 9.
10 of 1925.

Commencement.

[3RD APRIL 1925]

Short title.

1. This Act may be cited as the Offences Against the Person Act.

Interpretation.
[11 of 1979].

2. (1) In this Act “constable” means any member of the Police Service, and includes the Special Reserve Police and any rural, estate, city, or borough constable.

* (2) The use in any provision of section 32, 33 or 42 of the word “man” without the addition of the word “boy” or vice versa shall not prevent the provision applying to any person to whom it would have applied if both words had been used and similarly with the words “woman” and “girl”.

Rule of
Construction.
Application of
law of England.

3. Any person who commits any act or acts which if done or committed in England would amount to or constitute the offence of murder, manslaughter, buggery or rape, shall be deemed guilty of murder, manslaughter, buggery or rape, as the case may be; and every offence mentioned in this Act which would be an indictable offence according to the law of England shall be and is deemed to be an indictable offence in Trinidad and Tobago.

† **HOMICIDE**

Murder.
[45 of 1979].

4. Every person convicted of murder shall suffer death.

Diminished
responsibility.
[19 of 1985].

4A. (1) Where a person kills or is a party to the killing of another, he shall not be convicted of murder if he was suffering from such abnormality of mind (whether arising from a condition of arrested or retarded development of mind or any inherent causes or induced by disease or injury) as substantially impaired his mental responsibility for his acts and omissions in doing or being a party to the killing.

* See section 6 of Act No. 11 of 1979.

† See Criminal Procedure Act, ss 62–68.

(2) On a charge of murder, it shall be for the defence to prove that the person charged is by virtue of this section not liable to be convicted of murder.

(3) A person who but for this section would be liable, whether as principal or as accessory, to be convicted of murder is liable instead to be convicted of manslaughter.

(4) The fact that one party to a killing is by virtue of this section not liable to be convicted of murder shall not affect the question whether the killing amounted to murder in the case of any other party to it.

- (5) Where on a trial for murder the accused contends—
- (a) that at the time of the alleged offence he was insane so as not to be responsible according to law for his actions; or
 - (b) that at that time he was suffering from such abnormality of mind as is specified in subsection (1),

the Court shall allow the prosecution to adduce or elicit evidence tending to prove the other of those contentions, and may give directions as to the stage of the proceedings at which the prosecution may adduce such evidence.

- (6) Where on a trial for murder—
- (a) evidence is given that the accused was at the time of the alleged offence suffering from such abnormality of mind as is specified in subsection (1); and
 - (b) the accused is convicted of manslaughter,

the Court shall require the jury to declare whether the accused was so convicted by them on the ground of such abnormality of mind and, if the jury declare that the conviction was on that ground, the Court may, instead of passing a sentence as is provided by law for that offence, direct the finding of the jury to be recorded, and thereupon the Court may order such person to be detained in safe custody, in such place and manner as the Court thinks fit until the President's pleasure is known.

(7) The Court shall as soon as practicable, report the finding of the jury and the detention of the person to the President who shall order the person to be dealt with as a mentally ill person in accordance with the laws governing the care and treatment of such persons or in any other manner he may think necessary.

Provocation.
[19 of 1985].

4B. Where on a charge of murder there is evidence on which the jury can find that the person charged was provoked (whether by things done or by things said or by both together) to lose his self-control, the question whether the provocation was enough to make a reasonable man do as he did shall be left to be determined by the jury; and in determining that question the jury shall take into account everything both done and said according to the effect which, in their opinion, it would have on a reasonable man.

Application of
sections 4A and
4B.
[19 of 1985].

4C. (1) Subject to subsection (2), sections 4A and 4B apply to offences committed wholly or partly before the 21st May, 1985 as they apply to offences committed after that date.

(2) Sections 4A and 4B do not apply to an offence where an indictment for that offence has been signed before the 21st May, 1985.

Conspiring or
soliciting to
commit murder.

5. Any person who—

- (a) conspires, confederates and agrees with any person to murder another person, whether or not that other person is a citizen of Trinidad and Tobago or is within Trinidad and Tobago; or
- (b) solicits, encourages, persuades or endeavours to persuade, or proposes to any person to murder any other person, whether or not the person intended to be murdered is a citizen of Trinidad and Tobago, or is within Trinidad and Tobago,

is liable to imprisonment for ten years.

Manslaughter.

6. Any person who is convicted of manslaughter is liable to imprisonment for life or for any term of years, or to pay such fine as the Court shall award.

7. No punishment shall be incurred by any person who kills another person by misfortune or in his own defence, or in any other manner without criminality.

Excusable homicide. [45 of 1979].

8. Where any person who is criminally stricken, poisoned or otherwise hurt upon the sea, or at any place out of Trinidad and Tobago, dies of such stroke, poisoning, or hurt in Trinidad and Tobago, or is criminally stricken, poisoned or otherwise hurt in Trinidad and Tobago, dies of the stroke, poisoning or hurt upon the sea, or at any place out of Trinidad and Tobago, every offence committed in respect of any such case, whether the same amounts to the offence of murder or of manslaughter, may be dealt with, enquired of, tried, determined and punished in Trinidad and Tobago in the same manner in all respects as if the offence had been wholly committed in Trinidad and Tobago.

Murder, etc., where hurt abroad and death in Trinidad and Tobago or *vice versa*. [45 of 1979].

9. Any person who attempts to commit murder is liable to imprisonment for life or for any term of years.

By any other means attempting to commit murder. [45 of 1979].

LETTERS THREATENING TO MURDER

10. Any person who maliciously sends, delivers or utters, or directly or indirectly causes to be received, knowing the contents thereof, any letter or writing threatening to kill or murder any person, is liable to imprisonment for seven years.

Sending letters threatening to murder.

ACTS CAUSING OR TENDING TO CAUSE DANGER TO LIFE OR BODILY HARM

11. Any person who unlawfully and maliciously prevents or impedes any person, being on board of or having quitted any ship or vessel which is in distress, or wrecked, stranded or cast on shore, in his endeavour to save his life, or unlawfully and maliciously prevents or impedes any person in his endeavour to save the life of any such person as first mentioned in this section is liable to imprisonment for seven years.

Impeding a person endeavouring to save himself from shipwreck.

12. Any person who unlawfully and maliciously by any means whatsoever wounds or causes any grievous bodily harm to any person, or shoots at any person with intent to do some grievous

Shooting or wounding with intent to do grievous bodily harm. [45 of 1979].

bodily harm to any person, or with intent to resist or prevent the lawful apprehension or detainer of any person, is liable to imprisonment for fifteen years.

What shall constitute loaded arms.

13. Any gun, pistol, or other arm which is loaded in the barrel with gunpowder or any other explosive substance, and any ball, shot, slug or other destructive material shall be deemed to be loaded arms within the meaning of this Act; although the attempt to discharge the same may fail from want of proper priming or from any other cause.

Inflicting injury with or without weapon.

14. Any person who unlawfully and maliciously wounds or inflicts any grievous bodily harm upon any other person either with or without any weapon or instrument is liable to imprisonment for five years.

Attempting to choke, etc., in order to commit any indictable offence.

15. Any person who by any means whatsoever attempts to choke, suffocate or strangle any other person, or by any means calculated to choke, suffocate or strangle or attempts to render any other person insensible, unconscious or incapable of resistance, with intent in any of such cases thereby to enable himself or any other person to commit, or with intent in any of such cases thereby to assist any other person in committing, any indictable offence, is liable to imprisonment for fifteen years.

Using drug, etc., with intent to commit offence.

16. Any person who unlawfully applies or administers to, or causes to be taken by, or attempts to apply or administer to, or attempts to cause to be administered to or taken by, any person, any chloroform, laudanum or other stupefying or overpowering drug, matter or thing, with intent in any of such cases thereby to enable himself or any other person to commit, or with intent in any of such cases thereby to assist any other person in committing any indictable offence, is liable to imprisonment for fifteen years.

Administering poison, etc., so as to endanger life or inflict grievous bodily harm.

17. Any person who unlawfully and maliciously administers to, or causes to be administered to or taken by, any other person any poison or other destructive or noxious thing, so as thereby to endanger the life of that person, or so as thereby to inflict upon that person any grievous bodily harm, is liable to imprisonment for fifteen years.

- 18.** Any person who unlawfully and maliciously administers to, or causes to be administered to or taken by, any other person any poison or other destructive or noxious thing, with intent to injure, aggrieve, or annoy, such person is liable to imprisonment for five years. Administering poison, etc., with intent to injure or annoy.
- 19.** If, upon the trial of any person for an offence under section 17, the jury are not satisfied that such person is guilty of that offence but are satisfied that he is guilty of an offence under section 18, then and in every such case the jury may acquit the accused of the offence under section 17 and find him guilty of the offence under section 18 and thereupon he shall be liable to be punished in the same manner as if convicted upon an indictment for the offence under section 18. On indictment under section 17 jury may find verdict under section 18.
- 20.** Any person legally liable, either as a master or mistress, to provide for an apprentice or servant, necessary food, clothing or lodging, who wilfully and without lawful excuse refuses or neglects to provide the same, or who unlawfully and maliciously does or causes to be done any bodily harm to any such apprentice or servant so that the life of the apprentice or servant is endangered, or the health of the apprentice or servant is or is likely to be permanently injured, is liable to imprisonment for five years. Not providing apprentices or servants with food, etc., whereby life endangered.
- 21.** Any person who unlawfully abandons or exposes any child under the age of two years so that the life of the child is endangered or the health of the child is or is likely to be permanently injured, is liable to imprisonment for five years. Exposing children so that life endangered.
- 22.** Any person who unlawfully and maliciously, by the explosion of gunpowder or other explosive substance, burns, maims, disfigures, disables or does any grievous bodily harm to any person, is liable to imprisonment for life or for any term of years. Causing bodily injury by explosive substance.
- 23.** Any person who unlawfully and maliciously causes any gunpowder or other explosive substance to explode, or sends or delivers to, or causes to be taken or received by, any person any Use of explosive substance or other noxious thing, with intent to do grievous bodily harm.

gunpowder or other explosive substance, or any other dangerous or noxious thing, or puts or lays at any place, or casts or throws at or upon or otherwise applies to any person, any corrosive fluid or any destructive or explosive substance, with intent in any of the cases mentioned above to burn, maim, disfigure or disable any person, or to do some grievous bodily harm to any person is, whether any bodily injury is effected or not, liable to imprisonment for life or for any term of years.

Attempt to blow up buildings, etc.

24. Any person who unlawfully and maliciously places or throws in, into, upon, against or near any building, ship or vessel any gunpowder or other explosive substance, with intent to do any bodily injury to any person, whether or not any explosion takes place, and whether or not any bodily injury is effected, is liable to imprisonment for life or for any term of years.

Setting spring-guns, man-traps, etc.

25. (1) Any person who sets or places, or causes to be set or placed any spring-gun, man-trap or other engine calculated to destroy human life or inflict grievous bodily harm, with the intent that the same or whereby the same may destroy or inflict grievous bodily harm upon a trespasser or other person coming in contact therewith, is liable to imprisonment for five years.

(2) Any person who knowingly and wilfully permits any such spring-gun, man-trap or other engine which may have been set or placed in any place then being in or afterwards, coming into his possession or occupation by some other person to continue so set or placed, shall be deemed to have set and placed the gun, trap, or engine with the intent as mentioned above.

Traps for vermin.

(3) Nothing contained in this section shall extend to make it illegal to set or place any gun or trap, such as may have been or may be usually set or placed with the intent of destroying vermin.

Protection of dwelling house.

(4) Further, nothing in this section shall be deemed to make it unlawful to set or place, or cause to be set or placed, or to be continued set or placed, from sunset to sunrise, any spring-gun, man-trap, or other engine which is set or placed, or caused or continued to be set or placed, in a dwelling house, for the protection thereof.

26. (1) Any person, having the charge of any vehicle, who, by wanton or furious driving, or other wilful misconduct, or by wilful neglect, does or causes to be done any bodily harm to any person whatsoever, is liable to imprisonment for four years.

Drivers of vehicles injuring persons by furious driving.

(2) In this section, the expression “vehicle” includes a carriage, hackney carriage, motor car, motor cab, motor van, motor lorry, motor omnibus, motor cycle, tram car, cart, agricultural cart, hand cart, tricycle and bicycle.

ASSAULTS

27. Any person who—

- (a) by threats or force, obstructs or prevents, or endeavours to obstruct or prevent, any religious head or official in or from celebrating or otherwise officiating at any religious service, or meeting or at any place of divine worship, or in or from the performance of his duty in the lawful burial or cremation of the dead; or
- (b) strikes or threatens any violence to, or upon any civil process, or under the pretence of executing any civil process, arrests any religious head or official who is engaged in, or to the knowledge of the offender is about to engage in, or is going to perform, or is returning from the performance of any rites or duties mentioned in this section,

Obstructing or assaulting a religious official in the discharge of his duties. [85 of 2000].

commits an offence and is liable on summary conviction to imprisonment for four years.

28. Any person who assaults and strikes or wounds any Magistrate, officer or other person whatsoever lawfully authorised, in or on account of the exercise of his duty, in or concerning the preservation of any vessel in distress, or of any vessel, goods or effects wrecked, stranded or cast on shore, or lying under water is liable to imprisonment for four years.

Assaults on persons saving shipwrecked property.

Assault on peace officers, etc. [45 of 1979].

29. Any person who assaults, resists or wilfully obstructs any Magistrate, Justice, constable, peace officer or revenue officer in the due execution of his duty, or any person acting in aid of the Magistrate, Justice, constable, peace officer, or revenue officer, or assaults any person with intent to resist or prevent the lawful apprehension or detainer of himself or of any other person for any offence, is liable to imprisonment for four years.

Assault occasioning bodily harm.

30. Any person who is convicted upon an indictment of any assault occasioning actual bodily harm is liable to imprisonment for five years; and any person who is convicted upon an indictment for a common assault is liable to a fine of four thousand dollars and to imprisonment for two years.

Common assault.

RAPE, ABDUCTION, AND DEFILEMENT OF WOMEN, ETC.

31. }
to } *(Repealed by Act No. 27 of 1986).*
47. }

Abduction of girl from parents or guardians.

48. Any person who unlawfully takes, or causes to be taken, any unmarried girl, being under the age of fourteen years, out of the possession and against the will of her father or mother, or of any other person having the lawful care or charge of her, is liable to imprisonment for two years.

49. *(Repealed by Act No. 27 of 1986).*

Determination of tenancy of premises on conviction for permitting use as brothel, etc.

50. (1) Upon the conviction of the tenant, lessee, or occupier of any premises, of knowingly permitting the premises, or any part thereof, to be used as a brothel, the landlord or lessor is entitled to require the person so convicted to assign the lease or other contract under which the premises are held by him to some person approved by the landlord or lessor, which approval shall not be unreasonably withheld, and, in the event of the person so convicted failing within three months to assign the lease or contract, the landlord or lessor is entitled to determine the lease or other contract

but without prejudice to the rights or remedies of any party to the lease or contract accrued before the date of the determination. If the landlord or lessor should so determine the lease or other contract of tenancy, the Court which has convicted the tenant, lessee, or occupier shall have power to make a summary order for delivery of possession to the landlord or lessor.

(2) If the landlord, or lessor after the conviction is brought to his notice, fails to exercise his rights under the foregoing provisions of this section, and subsequently during the subsistence of the lease or contract any such offence is again committed in respect of the premises, the landlord or lessor shall be deemed to have knowingly aided or abetted the commission of that offence, unless he proves that he had taken all reasonable steps to prevent the recurrence of the offence.

(3) Where a landlord or lessor determines a lease or other contract under the powers conferred by this section, and subsequently grants another lease or enters into another contract of tenancy to, with, or for the benefit of the same person without causing to be inserted in the lease or contract all reasonable provisions for the prevention of a recurrence of any offence as mentioned above, he shall be deemed to have failed to exercise his rights under the foregoing provisions of this section, and any offence as mentioned above committed during the subsistence of the subsequent lease or contract shall be deemed, for the purposes of this section, to have been committed during the subsistence of the previous lease or contract.

51. }
 to } *(Repealed by Act No. 27 of 1986).*
 53. }

CHILD STEALING

54. Any person who unlawfully, either by force or fraud, leads Child stealing. or takes away, or decoys or entices away or detains, any child under the age of ten years, with intent to deprive any parent or guardian, or other person having the lawful care or charge of the child, of the

Fathers taking
their illegitimate
children.

possession of the child, or with intent to steal any article upon or about the person of the child, to whomsoever the article may belong, and any person who with any such intent, receives or harbours any such child, knowing the same to have been, by force or fraud, led, taken, decoyed, enticed away, or detained as mentioned in this section is liable to imprisonment for five years; but no person who claims to be the father of, or to have any right of possession of, an illegitimate child is liable to be prosecuted by virtue hereof on account of the getting possession of that child, or taking that child out of the possession of the mother or any other person having the lawful charge thereof.

BIGAMY

Bigamy.

55. (1) Any person who being married, marries any other person during the lifetime of the former husband or wife, whether the second marriage has taken place in Trinidad and Tobago or elsewhere, is liable to imprisonment for four years.

(2) Nothing contained in this section shall extend to any person marrying a second time whose husband or wife has been continually absent from such person for the space of seven years then last past, and has not been known by such person to be living within that time, or shall extend to any person who, at the time of the second marriage has been divorced from the bond of the first marriage, or to any person whose former marriage has been declared void by the sentence of any Court of competent jurisdiction.

ATTEMPTS TO PROCURE ABORTION

Procuring
abortion.

56. Every woman, being with child, who, with intent to procure her own miscarriage, unlawfully administers to herself any poison or other noxious thing, or unlawfully uses any instrument or other means whatsoever with the like intent, and any person who, with intent to procure the miscarriage of any woman, whether she is or is not with child, unlawfully administers to her or causes to be taken by her any poison or other noxious thing, or unlawfully uses any instrument or other means whatsoever with the like intent, is liable to imprisonment for four years.

57. Any person who unlawfully supplies or procures any poison or other noxious thing, or any instrument or thing whatsoever, knowing that the same is intended to be unlawfully used or employed with intent to procure the miscarriage of any woman, whether she is or is not with child, is liable to imprisonment for two years.

Procuring drugs, etc., to cause abortion.

CONCEALING THE BIRTH OF A CHILD

58. If any woman is delivered of a child, every person who, by any secret disposition of the dead body of the child, whether the child died before, at, or after its birth, endeavours to conceal the birth is liable to imprisonment for two years; but if any person tried for the murder of any child or for infanticide is acquitted, the jury by whose verdict the person was acquitted may find, in case it so appears in evidence, that the child had been born within twelve months before its death, and that such person did, by some secret disposition of the dead body of the child endeavour to conceal its birth, and thereupon the Court may pass such sentence as if the person had been convicted upon an indictment for the concealment of the birth.*

Concealment of birth.

(*Vide* Ch. 4, No. 3, s. 65.)

59. }
 to } (*Repealed by Act No. 27 of 1986*).
61. }

MAKING EXPLOSIVE SUBSTANCE TO COMMIT OFFENCE, AND SEARCHING FOR THE SAME

62. Any person who makes or manufactures or knowingly has in his possession, any gunpowder or other explosive substance, or any dangerous or noxious thing, or any machine, engine, instrument, or thing, with intent by means thereof to commit, or for the purpose of enabling any other person to commit, any of the arrestable offences mentioned in this Act is liable to imprisonment for two years.

Making or having explosive substances, with intent to commit offence against this Act. [45 of 1979].

*See section 63 of Ch. 12:02.

Power to search
and arrest
suspected
persons.
[45 of 1979].

63. Where there is reasonable cause to suspect that any combustible or inflammable material is concealed or placed in, against or under any house, building or other place for the purpose of being used in committing any of the arrestable offences mentioned in this Act, any Justice may by warrant under his hand authorise any constable, with such assistance as may be necessary, to enter and search at any time of the day or night such house, building, or other place and any adjacent premises; and, if any combustible or inflammable material is found, to convey the same forthwith before any Magistrate, or to guard the same on the spot or in some place of security subject to the orders of any Magistrate, and to apprehend and convey before any Magistrate the person or persons in, against, or under whose house, building, or place the material is found, if any constable acting under any such warrant as aforesaid has reasonable cause to suspect any such person of having been privy to the concealment or placing of the material, and also any other person found in or near the house, building, or place who appears to have been privy to the concealment or placing of such material.

64. *(Repealed by Act No. 27 of 1986).*

APPENDIX

REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 90 of 2000

An Act to amend the Offences Against the Person Act, Ch. 11:08.

[ASSENTED TO 2ND NOVEMBER 2000]

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

1. (1) This Act may be cited as the Offences Against the Person (Amendment) Act, 2000. Short title and Commencement.

(2) This Act shall come into operation on such date as the President may appoint by Proclamation.

2. Section 3 of the Offences Against the Person Act (hereinafter referred to as “the Act”) is renumbered as section (1), and the following new subsection (2) is added thereto: Section 3 of the Act amended Ch. 11:08.

“ (2) Notwithstanding anything in subsection (1), a person shall suffer death if he is convicted of murder 1.”

3. The Act is amended by inserting after section 4C the following new sections: Sections 4D, 4E, 4F, 4G, 4H, 4I, and 4J inserted.

“Murder 1. 4D. Murder 1 is the category of the offence of murder as may be determined under section 4J which is not reduced to manslaughter or which is not required to be punished as manslaughter under any written law and consists of the offences specified in section 4E.

Categories of Murder 1. 4E. (1) Subject to subsection (2), murder committed in the following circumstances is Murder 1, that is to say:

- (a) the murder of—
- (i) a member of the security forces acting in the execution of his duties or of a person assisting a member so acting;
 - (ii) a prison officer acting in the execution of his duties or of a person assisting a prison officer so acting;
 - (iii) a judicial officer or legal officer acting in the execution of his duties or a former judicial officer or legal officer where the murder was intentionally carried out in retaliation for the performance of his official duties,

and includes the murder of any such member of the security forces, prison officer, judicial officer or legal officer directly attributable to the nature of his occupation;

- (b) the murder of any person or the immediate family member of that person for any reason directly attributable to—
- (i) the status of that person as a witness or party in any pending or concluded criminal proceedings; or

- (ii) the service or past service of that person as a juror in any criminal trial;
- (c) any murder committed by a person in the course or furtherance of an arrestable offence involving violence;
- (d) murder committed by means of a destructive device, bomb or explosive—
 - (i) planted, hidden, or concealed in any place, area, dwelling, building or structure; or
 - (ii) that the defendant mailed or delivered, attempted to mail or deliver, or caused to be mailed or delivered, and the defendant knew, or reasonably should have known, that his act would create a great risk or death to one or more human beings;
- (e) murder committed pursuant to an arrangement whereby money or anything of value—
 - (i) passes or is intended to pass from one person to another or to a third party at the request or direction of that person; or

(ii) is promised by one person to another or to a third person at the request or direction of that other person,

as consideration for that other reason causing or assisting in causing the death of any person or counselling or procuring any person to do an act causing or assisting in causing that death;

(f) murder that is especially heinous, atrocious or cruel, manifesting exceptional depravity;

(g) murder where the deceased was intentionally killed because of his race, religion, nationality or country of origin.

(2) Where it is alleged that a person accused of murder is guilty of murder 1, the offence shall be charged as Murder 1 in the indictment.

(3) In this section—

“prison officer” has the same meaning as in the Prison Service Act;

“judicial officer” means—

(a) a Puisne Judge or a Justice of Appeal, a Master in Chambers or any person for the time being performing the functions of a Puisne Judge or a Justice of Appeal or a Master in Chambers;

(b) the Registrar or Deputy Registrar of the Supreme Court of Judicature, the Board of Inland Revenue or the Court of Appeal or any person for the time being performing the functions of Registrar or Deputy Registrar;

(c) a Magistrate or any person for the time being performing the functions of a Magistrate;

“immediate family member” means a husband, wife, father, mother, daughter, son, brother, sister, step-parent, grandparent, stepchild or grandchild;

“legal officer” means an officer of the Court who carries out the function of the prosecution of offences and includes State attorneys in the office of the Director of Public Prosecutions, Attorneys-at-law engaged to carry out functions on behalf of the Director of Public Prosecutions and police officers who prosecute in the Courts;

“member of the security forces” means a member of—

(a) the Police Service;

(b) the Prison Service;

(c) the Defence Force to the extent that such member has been assigned to act in aid of the Police;

(d) the Special Reserve Police;

“terrorism” means an act involving the use of violence by a person which, by reason of its nature and extent, is calculated to create a state of fear in the public or any section of the public.

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Non-applicability of section 4.

4F. Notwithstanding section 4—

- (a) a person convicted of murder 2 shall suffer death only in the circumstances referred to in section 4G;
- (b) a person convicted of murder 3 shall not suffer death.

Multiple murders.

4G. (1) A person convicted of Murder 2 shall be sentenced to death, if before conviction of that murder he has been convicted in Trinidad and Tobago of another murder, whether or not done on a different occasion.

(2) Where, pursuant to subsection (1), a person is charged with the murder of two or more persons, no rule of practice shall prevent the murders being charged in the same indictment or, unless separate trials are desirable in the interests of justice, prevent them being tried together; and where a person is convicted of two murders tried together but done on different occasions, subsection (1) shall apply as if one conviction had preceded the other.

Murder 2.

4H. (1) Murder 2, subject to this section, is the category of the offence of murder as may be determined under section 4J that is reduced to manslaughter or that is required to be punished as manslaughter under a written law, and includes, gross negligence, mercy killing, recklessness as to participation in the offence of murder, the use of excessive force outside the contemplation of section 4 of the Criminal Law Act, but does not include Murder 3 or matters falling within Murder 1.

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(2) In this section—

“mercy killing” means an act or acts otherwise amounting to murder done

with respect to a patient *in extremis* in such circumstances as demonstrate the absence of culpable malice aforethought.

Murder 3. 4I. Murder 3 is involuntary homicide committed otherwise than is referred to in section 7 for which a person is liable to be convicted, and includes manslaughter by provocation, negligence and causing death by reckless driving.

Discretion to prosecution. 4J. (1) Notwithstanding anything in this Act or in any other law, in exercising his discretion to prosecute for a category of the offence of murder under sections 4D to 4H the Director of Public Prosecutions may—

- (a) having regard to the nature of the circumstances in which the killing took place, himself determine in which category the offence falls; or
- (b) in any case where he considers the interest of justice so requires apply to a Judge to determine whether an indictment shall lie and if so for what category of the offence.

(2) In any proceedings under subsection (1)(b) any person who is charged or to be charged or who is otherwise concerned with any offence before the Judge or collateral thereto, or who may be involved in the prosecution of such offence has the right to be present and to take part in the proceedings.

(3) No appeal shall lie from any determination of a Judge under this section.

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(4) A determination under subsection (1) shall be taken to fix the category of the offence for the purpose of liability to conviction for any act or acts amounting to, or consisting of Murder 1 or Murder 2.”

Section 6 of the Act repealed and replaced.

4. Section 6 of the Act is repealed and replaced as follows:

“Life imprisonment for Murder 2.

6. (1) Subject to the provisions of this Act every person who is convicted of Murder 2 shall be sentenced to imprisonment for life.

(2) Notwithstanding any other law, on sentencing any person convicted of Murder 2 to imprisonment for life, the Court may specify a period, being longer than ten years, which that person should serve before becoming eligible for parole.

Procedure.

6A. (1) On an indictment charging a person with capital murder, he may be found not guilty of capital murder but guilty of Murder 2.

(2) Capital murder shall be treated as a distinct category of offence from Murder 2 for the purpose of any appeal against conviction.

(3) Where on an appeal against conviction of capital murder the Court substitutes a verdict of guilty of Murder 2 for the verdict of guilty of Murder 1, the Court shall nevertheless determine whether the sentence of death is warranted by section 4G(1) and shall confirm that sentence if it is found to be so warranted.

(4) Subject to the foregoing provisions of this section, Murder 1 shall not be treated as a different category from the offence of Murder 2 for any purpose.

(5) A person referred to in section 4G(1) shall not by virtue of that subsection be sentenced to death by reason of a previous conviction for murder, unless—

- (a) at least seven days before the trial, notice is given to him that it is intended to prove the previous conviction; and
- (b) before he is sentenced, his previous conviction for murder is admitted by him or is found to be proven by the Jury.

Provisions as to appeals in relation to repeated and multiple.

6C. (1) Where a person is sentenced to death by virtue of section 4G(1), he shall have the like right of appeal against the sentence as if the appeal were against the sentence as if the appeal were against a conviction involving the sentence of death.

(2) On any such appeal against sentence, the Court shall have the same powers as to allowing or dismissing the appeal as on an appeal against conviction; and where the Court allows the appeal, and it appears to the Court that, having regard to the decision on the appeal, the sentence is not warranted in law, the Court shall quash the sentence and pass the appropriate sentence in substitution for it.

(3) Where a person is sentenced to death under section 4G(1), (which relates to more than one conviction for murder) and afterwards one of the convictions is set aside on appeal—

- (a) that person may apply to the Court of Appeal to set aside

the sentence of death on the ground that it is no longer warranted in law having regard to the decision on appeal; and

- (b) whether or not an application is made under paragraph (a), the Registrar of the Court of Appeal shall notify the Court that the sentence is one which should be set aside on the ground referred to in that paragraph,

and the Court if satisfied that the sentence is no longer warranted in law, shall set it aside and pass the appropriate sentence in substitution for it.

(4) Where a person is sentenced to death as aforesaid then, unless he is so sentenced on being convicted of Murder 1, the sentence shall not in any case be executed so long as the other conviction can be set aside on appeal or by any other legal process.

Provisions as to procedure regarding two or more murders tried together.

6D. (1) Subject to subsection (2), where a sentence of death is passed on a person convicted of two or more murders tried together it shall be treated as passed in respect of each of the convictions.

(2) If one of the convictions as aforesaid is and any other is not set aside on appeal, the Court deciding the appeal, unless satisfied that the sentence remains warranted in law in respect of any other conviction, shall set the sentence aside and pass the appropriate sentence in substitution for it.”.

4A. The Act is amended in section 54 by—

Section 54
amended.

(a) deleting the words “under the age of ten” and substituting the words “under the age of sixteen”; and

(b) deleting all the words commencing with the words “but no person who claims to be the father.”.

5. The Criminal Law Act is amended by substituting for the word “murder” occurring in section 2A the words “murder 1”.

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amended.