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Second Session Tenth Parliament Republic of
Trinidad and Tobago

HOUSE OF REPRESENTATIVES

BILL

AN ACT to repeal and replace the Indictable Offences
(Preliminary Enquiry) Act, Chap. 12:01 and to
provide for a system of pre-trial proceedings relating
to indictable offences and other related matters

THE ADMINISTRATION OF JUSTICE (INDICTABLE
PROCEEDINGS) BILL, 2011

Explanatory Note

(These notes form no part of the Bill but are intended only to indicate its general purport)

The Administration of Justice (Indictable Proceedings) Bill, 2011 would repeal and replace the Indictable Offences (Preliminary Enquiry) Act, Chap. 12:01 and would provide for a system of pre-trial proceedings whereby witness statements would be admitted and considered by a Master of the High Court (hereinafter referred to as “a Master”).

A Master would conduct an initial hearing to address preliminary issues relating to the identification of the accused, bail and legal representation for the accused. The Master would then conduct a sufficiency hearing to determine whether a *prima facie* case has been made out against an accused. If a *prima facie* case is made out, the Master would order that the accused be put on trial before a Judge and jury. The Bill would not provide for cross examination at the sufficiency hearing, but would allow no case submissions to be made, following which the Master would review the witness statements, documentary evidence and no case submissions and determine whether an accused should be put on trial.

The Bill contains provisions which are inconsistent with sections 4 and 5 of the Constitution and therefore needs to be passed by a special majority of three-fifths of all the members of each House of Parliament.

Part I would provide for the preliminary matters.

Clause 1 of the Bill would provide for the short title and commencement of the proposed Act.

Clause 2 of the Bill would provide that the proposed Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution.

Clause 3 of the Bill would provide for the interpretation of certain terms used in the Bill.

Clause 4 of the Bill would provide for the application of the proposed Act to proceedings instituted prior to, on or after the commencement of the proposed Act.

Clause 5 of the Bill would empower a Master to issue a search warrant.

Clause 6 of the Bill would provide for the institution of indictable proceedings by way of the laying of the complaint or the preferring of an indictment, and would also provide for the issuing of a summons or warrant to compel the appearance of the accused in court.

Clause 7 of the Bill would make provision with respect to the issuing of a summons for the appearance of an accused before a Master.

Clause 8 of the Bill would provide for the issuing and execution of a warrant of arrest to compel the appearance of an accused before a Master.

Clause 9 of the Bill would provide for the endorsing of bail on a warrant of arrest.

Clause 10 of the Bill would give Magistrates concurrent jurisdiction with Masters to issue search warrants, receive complaints, issue summons and warrants of arrest, grant bail and remand an accused in custody.

Part II would provide for the initial hearing.

Clause 11 of the Bill would provide for an initial hearing whereby preliminary issues relating to the identification of an accused, bail and legal representation for the accused, would be addressed.

Clause 12 of the Bill would give the Director of Public Prosecutions the discretion to require that certain indictable offences be dealt with summarily.

Clause 13 of the Bill would require a Master to warn an accused that evidence of, or in support of, an alibi would not be allowed at trial unless the accused gives particulars of his alibi and of the witnesses who will be supporting his alibi, at the initial hearing or in writing to the Director of Public Prosecutions within forty-eight hours.

Clause 14 of the Bill would make provision in relation to the admission, at trial, of evidence of or in support of an alibi.

Clause 15 of the Bill would provide that any irregularity in a complaint, summons or warrant or in the service thereof, would not affect the validity of any proceeding at or subsequent to the initial hearing.

Clause 16 of the Bill would provide for adjournments at an initial hearing.

Clause 17 of the Bill would provide for remanding an accused in custody.

Clause 18 of the Bill would provide for conveying an accused to prison, where the accused is remanded in custody.

Part III provides for the sufficiency hearing.

Clause 19 of the Bill would provide for the holding of a sufficiency hearing before a Master.

Clause 20 of the Bill would provide for the conduct of a sufficiency hearing.

Clause 21 of the Bill would provide for the admissibility of prosecution witness statements and the conditions attached thereto.

Clause 22 of the Bill would allow a prosecutor to adduce further evidence where the Master considers it just and expedient to do so.

Clause 23 of the Bill would state the standard of evidence required for finding that a *prima facie* case has been made out.

Clause 24 of the Bill would provide for the discharge of an accused where a *prima facie* case has not been made out.

Clause 25 of the Bill would authorise a Master to order that an accused be put on trial where a *prima facie* case is made out, and would also provide for the procedure to be adopted upon such an order being made.

Clause 26 of the Bill would require a Master to transmit the proceedings, including all documents, to the Director of Public Prosecutions.

Clause 27 of the Bill would provide for the discretion of the Director of Public Prosecutions to prefer an indictment after consideration of the proceedings transmitted to him by the Master.

Clause 28 of the Bill would provide for the sentencing of an accused who pleads guilty at a sufficiency hearing.

Clause 29 would provide for the admissibility of witness statements at trial.

Clause 30 of the Bill would provide for the binding over of witnesses to give evidence at the trial of an accused.

Clause 31 of the Bill would restrict the printing or publishing of information regarding any matter at a sufficiency hearing, except the name, image, address and occupation of an accused who is an adult and who is not charged with an offence under the Sexual Offences Act and a concise statement of the charge and the defence.

Part IV would make certain miscellaneous provisions.

Clause 32 of the Bill would authorise the Rules Committee of the Supreme Court of Judicature to make Rules of Court relating to proceedings under the proposed Act.

Clause 33 of the Bill would repeal the Indictable Offences (Preliminary Inquiry) Act, Chap. 12:01, but would provide for the continued application of that Act to proceedings instituted prior to the coming into force of the proposed Act, where neither the prosecution nor the accused elects to have the case determined under the proposed Act.

Clause 34 of the Bill would provide for the discharge of an accused for want of prosecution.

Clause 35 of the Bill would provide for consequential amendments.

THE ADMINISTRATION OF JUSTICE (INDICTABLE
PROCEEDINGS) BILL, 2011

Arrangement of Clauses

PART I

PRELIMINARY

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20. Review of evidence
21. Admissibility of prosecution witness statements
22. Further evidence
23. *Prima facie* case
24. Discharge of accused
25. Order to put accused on trial
26. Transmission and custody of documents and exhibits relating to a case
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28. Accused admitting guilt at sufficiency hearing
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BILL

AN ACT to repeal and replace the Indictable Offences
(Preliminary Enquiry) Act, Chap. 12:01 and to
provide for a system of pre-trial proceedings relating
to indictable offences and other related matters

[, 2011]

WHEREAS it is enacted *inter alia* by section 13(1) of the Preamble
Constitution that an Act of Parliament to which that
section applies may expressly declare that it shall have
effect even though inconsistent with sections 4 and 5 of

the Constitution and, if any Act does so declare, it shall have effect accordingly:

And whereas it is provided by section 13(2) of the Constitution that an Act of Parliament to which that 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 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:

PART I

PRELIMINARY

Short title and commencement 1. (1) This Act may be cited as the Administration of Justice (Indictable Proceedings) Act, 2011.

(2) This Act comes into operation on such date as is fixed by the President by Proclamation.

Act inconsistent with the Constitution 2. This Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution.

Interpretation 3. (1) In this Act—

“accused” means a person against whom a complaint is made or an indictment is preferred;

“complaint” means a complaint referred to in section 6;

“documentary evidence” includes a documentary exhibit relating to a witness statement;

“initial hearing” means the proceedings referred to in section 11;

“legal aid” means legal aid under the Legal Aid and Advice Act;

“Master” means a Master of the High Court appointed to conduct proceedings under this Act;

“prosecutor” means the Director of Public Prosecutions or a person acting under and in accordance with his general or special instructions;

“Registrar” means the Registrar of the Supreme Court;

“Rules” means Rules made under section 32;

“sufficiency hearing” means the proceedings referred to in section 19;

“summons” means a summons issued under section 6(a).

(2) For the purposes of this Act, proceedings were instituted prior to the coming into force of this Act when the accused appeared before a Magistrate or Justice of the Peace and the charge was read to him prior to the coming into force of this Act.

(3) For the purposes of this Act, proceedings are instituted under this Act when the accused appears before a Master, Magistrate or Justice of the Peace and the charge is read to him.

4. (1) Subject to subsection (2), this Act shall apply to ^{Application} proceedings which are instituted on or after the coming into force of this Act.

(2) Where proceedings were instituted prior to the coming into force of this Act, the prosecutor or the accused may elect to have the case determined in accordance with this Act and where evidence has been led, the Magistrate shall transmit the record of the proceedings and all relevant evidence to a Master.

5. (1) A Master who is satisfied by proof on oath that ^{Power to issue search warrant} there is reasonable ground for believing that there is in

any building, ship, vessel, vehicle, box, receptacle or place—

- (a) anything upon or in respect of which any indictable offence has been or is suspected to have been committed;
- (b) anything which there is reasonable ground for believing will afford evidence as to the commission of an indictable offence; or
- (c) anything which there is reasonable ground for believing is intended to be used for the purpose of committing any indictable offence against the person,

may at any time issue a warrant under his hand authorizing any constable to search such building, ship, vessel, vehicle, box, receptacle or place for any such thing and to seize and carry it before the Master issuing the warrant or some other Master, to be dealt with by him according to law.

(2) A warrant under subsection (1) may be issued and executed at any time and may be issued and executed on a Sunday.

(3) Where anything is seized in accordance with subsection (1) and brought before a Master, he may, for safe keeping until the trial, detain it or deliver it to the Commissioner of Police or to any person authorized by the Commissioner of Police to receive it.

(4) If the thing to be searched for is gunpowder or any other explosive or dangerous or noxious substance or thing, the person making the search shall have the same powers and protection as are given by any written law for the time being in force to any person lawfully authorized to search for any such thing, and the thing itself shall be disposed of in the manner directed by the written law, or, in default of such direction, as the Commissioner of Police may order.

6. (1) Where a complaint in writing is made to a Master that an indictable offence has been committed by a person (hereinafter referred to as “the accused”), the Master shall—

Institution of
indictable
proceedings and
compelling
appearance of
accused

- (a) where the complaint is without oath, issue a summons; or
- (b) where the complaint is on oath, issue a warrant,

to compel the appearance before him of that person.

(2) Notwithstanding subsection (1), where the Director of Public Prosecutions is of the opinion that a person should be put on trial for an indictable offence, the Director of Public Prosecutions may prefer and file an indictment against that person, whether or not a complaint is made against that person.

(3) Where the Director of Public Prosecutions prefers an indictment under subsection (2), the Master may issue a summons or a warrant to compel the appearance before him of that person.

7. (1) A summons shall—

Summons for
appearance of
accused

- (a) be directed to the accused;
- (b) contain a statement of the specific offence with which the accused is charged, together with—
 - (i) a reference to the section of the written law creating the offence, where applicable; and
 - (ii) such particulars as may be necessary for giving reasonable information as to the nature of the charge; and
- (c) require the accused to appear at a certain time and place to be mentioned in the summons.

(2) A single summons may be issued against an accused in respect of several complaints or indictments, but the summons shall state the substance of each complaint or indictment separately and shall have effect as several summonses each issued in respect of one complaint or indictment.

(3) A summons shall not be signed in blank.

(4) A summons shall be served by a constable on the accused, either by delivering it to him personally or if he cannot be found, by leaving it with an adult person for him at his last given, or most usual, place of abode.

(5) A summons shall be served on the accused not less than forty-eight hours before the time mentioned in the summons for the appearance of the accused before the Master, but the accused may waive proper service.

(6) A constable who serves a summons shall attend at the time and place mentioned in the summons for the appearance of the accused, in order, if necessary, to prove the service, but the Master before whom the accused is required to appear may receive proof of the service by affidavit and such affidavit may be made before any Master.

Warrant for
apprehension of
accused

8. (1) Notwithstanding section 6(1)(b), a Master may, if he is of opinion that a case for so doing is made out, issue a warrant for the apprehension of the accused where the complaint is without oath.

(2) A warrant under this section or section 6 may be issued and executed at any time, including a Sunday.

(3) Where it appears, on oath taken before a Master by the complainant, that a summons cannot be served, the Master may issue a warrant for the apprehension of the accused at any time before or after the time mentioned in the summons for the appearance of the accused.

(4) Where the service of a summons is proved and the accused does not appear, a Master may issue a warrant for the apprehension of the accused.

(5) Where a summons was issued on the basis of a complaint without oath, a Master may, at any time before or after the time mentioned in the summons for the appearance of the accused, issue a warrant for the apprehension of the accused.

(6) Where an accused is apprehended upon a warrant, he shall, without delay and as soon as practicable after he is apprehended, be brought before a Master or, where this is not possible, a Magistrate.

(7) Where an accused apprehended in accordance with subsection (6) is brought before a Magistrate, the Magistrate shall—

- (a) remand the accused in custody or, where applicable, fix bail; and
- (b) transmit the record of the proceedings and all relevant evidence to a Master.

(8) Where there is a delay in bringing an accused before a Master or Magistrate, the police shall provide reasons for the delay.

9. (1) A Master issuing a warrant under this Act for the arrest of an accused may, in accordance with the Bail Act, grant him bail, endorsing the warrant with a direction in accordance with subsection (2). Warrant endorsed for bail Chap. 4:60

(2) A direction for bail endorsed on a warrant under subsection (1) shall—

- (a) state that the accused is to be released on bail subject to a duty to appear before such Master and at such time as may be specified in the endorsement; and
- (b) fix the amount in which any surety or sureties are to be found.

(3) Where a warrant has been endorsed for bail under subsection (1) and the accused referred to in the warrant is arrested and taken to a police station, the officer in charge of the police station shall, subject to his approving any surety rendered in compliance with the endorsement, release the accused from custody as directed in the endorsement.

Concurrent
jurisdiction of
Masters and
Magistrates

10. (1) For the purpose of this Act, Magistrates shall, subject to subsections (2) and (3), have and exercise concurrent jurisdiction with Masters to—

- (a) issue search warrants pursuant to section 5;
- (b) receive complaints on oath pursuant to section 6;
- (c) issue a summons or warrant pursuant to section 6 or 8, as the case may be;
- (d) grant bail in accordance with the Bail Act and fix the amount thereof; and
- (e) remand the accused in custody.

(2) Where a Magistrate issues a warrant pursuant to subsection (1)(a) or (c), he shall endorse the warrant with a direction that the person arrested, or the thing seized, be brought before a Master, or where this is not practicable, before a Magistrate.

(3) Where a Magistrate grants an accused bail or remands him in custody, the Magistrate shall cause the accused to appear or be brought before a Master and shall transmit the record of the proceedings and all relevant evidence to the Master.

PART II

INITIAL HEARING

Initial hearing

11. (1) Subject to section 12, where an accused appears, or is brought, before a Master in accordance with Part I, the Master shall conduct an initial hearing.

- (2) At an initial hearing, a Master shall—
- (a) verify the accused's identity, place of abode or given address and other contact information;
 - (b) inform the accused of his right to legal representation and inquire whether the accused is represented by an Attorney-at-law and—
 - (i) if the accused is represented, record the appearance of the Attorney-at-law;
 - (ii) if the accused is not represented and requests legal representation, fix a date by which the accused shall retain an Attorney-at-law to represent him or make an order for legal aid to be granted within three weeks; or
 - (iii) if the accused is not represented and refuses legal representation, record the accused's refusal of legal representation;
 - (c) inform the accused of the charge by—
 - (i) reading the charge; or
 - (ii) providing the accused with a copy of the charge, where the accused is represented by an Attorney-at-law and consents to the waiving of the reading of the charge;
 - (d) explain to the accused that he is not called upon to enter a plea;
 - (e) give the accused the warning in section 13(1);
 - (f) inform the accused of his right to have an interpreter, where applicable;
 - (g) hear and determine an application for bail in accordance with the Bail Act, an application for an adjournment or any other application by the prosecution or the accused;

Schedule 1

- (h) make a Scheduling Order in the form set out in Schedule 1, specifying the date on or before which—
- (i) the accused shall, if applicable, retain an Attorney-at-law;
 - (ii) an order for legal aid shall, if applicable, be satisfied;
 - (iii) the prosecutor shall file in the High Court and serve on the accused all witness statements and other documentary evidence that he intends to use at the sufficiency hearing, which date shall be no later than three months from the making of the Scheduling Order;
 - (iv) the accused shall file in the High Court and serve on the prosecutor any witness statements and other documentary evidence that he intends to use at the sufficiency hearing, which date shall be no later than twenty-eight days from the date on which witness statements and other documentary evidence are served under subparagraph (iii); and
 - (v) the sufficiency hearing shall commence, which date shall be no later than twenty-eight days from the date on which witness statements and other documentary evidence are served under subparagraph (iv),
and specifying the dates on which the prosecutor, the accused or the Legal Aid and Advisory Authority, as the case may be, may appear, if necessary, before the Master to apply for an extension of time—
 - (vi) to file and serve witness statements and other documentary evidence;

- (vii) to retain an Attorney-at-law, in the case of the accused; or
 - (viii) to provide legal aid to the accused, in the case of the Legal Aid and Advisory Authority,
- and for the Scheduling Order to be amended accordingly.

(3) Nothing in this section shall be construed as preventing an accused from retaining, at a subsequent stage of his case, any other Attorney-at-law.

(4) A Master shall cause a copy of a Scheduling Order to be given to—

- (a) the accused or his Attorney-at-law;
- (b) the Legal Aid and Advisory Authority, where an order for legal aid is made; and
- (c) the prosecutor.

(5) Where the prosecutor, the accused or the Legal Aid and Advisory Authority applies for an extension under subsection (2), the Master may grant no more than one extension not exceeding fourteen days to either party.

12. (1) Where an accused is charged with an offence specified in Schedule 2 and the Director of Public Prosecutions informs the Master that the case is to be dealt with summarily, the Master shall forthwith transfer the matter to the Magistrates' Court in the Magisterial District where the offence is alleged to have occurred.

Summary trial for
certain indictable
offences
Schedule 2

(2) A person summarily convicted of an indictable offence under this section is liable to a fine of fifty thousand dollars or imprisonment for ten years; but such person shall not be liable to any greater penalty than the maximum penalty to which he would be liable if he had been convicted on indictment.

(3) Subsection (2) shall not apply in relation to the penalty for the offence of kidnapping.

(4) Where a person is convicted under this section of inciting another person to commit a summary offence, he shall not be liable to a penalty greater than that to which he would have been liable if he were convicted of that summary offence.

(5) Where a person is convicted under this section of attempting, or inciting another person, to commit an offence, he shall not be liable to a penalty greater than that to which he would have been liable if he had originally been charged with the completed summary offence.

Notice of alibi

13. (1) At an initial hearing, a Master shall address the accused in the following words or words to the like effect: "I must warn you that you shall not be permitted at trial to give, or to call witnesses to give, evidence of or in support of an alibi, unless you have earlier given particulars of the alibi and of the witnesses in support thereof. You may give those particulars now to this Court or in writing to the Director of Public Prosecutions within forty-eight hours."

(2) A Master shall explain the meaning of the word "alibi" to an accused person.

(3) Where a Master gives an accused the warning required by subsection (1), the Master shall cause written notice of the warning to be given to the accused.

(4) In this section and section 14, "evidence in support of an alibi" means evidence tending to show that by reason of the presence of the accused at a particular place or at a particular time he was not, or was unlikely to have been, at the place where the offence is alleged to have been committed at the time of its alleged commission.

Evidence of alibi
in trial

14. (1) On trial on indictment, an accused may adduce evidence of or in support of alibi if he has given notice of the particulars in accordance with the warning in section 13(1).

(2) Without prejudice to subsection (1), on trial on indictment, the accused may call any other person to give evidence of or in support of an alibi if—

- (a) the notice under that subsection includes the name and address of the witness or, if the name or address is not known to the accused at the time at which he gives the notice, any information in his possession which might be of material assistance in finding the witness;
- (b) the name or the address is not included in that notice and the Court is satisfied that the accused, before giving notice, took and thereafter continued to take all reasonable steps to ensure that the name or address would be ascertained;
- (c) the name or the address is not included in that notice, but the accused subsequently discovers the name or address or receives other information which might be of material assistance in finding the witness and he forthwith gives notice of the name, address or other information, as the case may be; or
- (d) the accused is notified by the prosecutor that the witness has not been traced by the name or at the address given and he forthwith gives notice of any such information which is then in his possession or, on subsequently receiving any such information, he forthwith gives notice of it.

(4) The Court shall not refuse leave under this section if it appears to the Court that the accused was not warned in accordance with section 13.

(5) Any evidence tendered to disprove an alibi may, subject to the discretion of the Court as to the time at which it is to be given, be tendered before or after evidence of or in support of the alibi is tendered.

Irregularity in
complaint, summons,
warrant, service or
arrest

15. (1) No irregularity or defect in the substance or form of the complaint, summons or warrant, and no variance between the charge contained in the summons or warrant and the charge contained in the complaint, shall affect the validity of any proceeding at or subsequent to the initial hearing.

(2) Any proceeding at or subsequent to an initial hearing may be held notwithstanding—

- (a) any irregularity, illegality, defect or error in the summons or warrant, or the issuing, service or execution of the same;
- (b) the want of any complaint upon oath; or
- (c) any defect in the complaint, or any irregularity or illegality in the arrest or custody of the accused person.

Adjournment

16. (1) A Master may—

- (a) if he considers it expedient to do so; or
- (b) at the request of the accused and in the interest of justice,

adjourn an initial hearing to a certain date, time and place.

(2) Unless the accused and the prosecutor consent, an adjournment shall not be longer than twenty-eight clear days, but where no court is to be held within the twenty-eight days, then the adjournment may be fixed for the next day on which the Master holds court at the place where the order is made.

Remand of accused

17. (1) An accused who is not released on bail shall be remanded in custody to a prison.

(2) An accused shall not be remanded unless a complaint on oath is taken, an indictment is filed or a warrant is issued under section 8.

(3) If the Master adjourns the initial hearing and remands the accused, the remand shall be by warrant.

Schedule 3

(4) A remand warrant under subsection (3) shall be in the form set out in Schedule 3.

(5) Where a Master is satisfied that an accused who has been remanded is, by reason of illness or accident, unable to appear before the court at the adjournment pursuant to section 16, the Master may, in the absence of the accused, order him to be further remanded for no longer than twenty-eight days.

18.(1) Where an accused is remanded in custody, a constable shall convey him to the prison, and shall there deliver him together with the remand warrant to the Commissioner of Prisons who shall thereupon give the constable a receipt for the accused, which shall set forth the condition of the accused at the time of his being delivered into the custody of the Commissioner of Prisons.

(2) Where a remand warrant is delivered to the Commissioner of Prisons by the person charged with the execution of the warrant on an accused, the Commissioner of Prisons shall—

(a) receive and detain the accused; or

(b) if the accused is already in his custody, detain the accused,

for such period and purpose as the warrant directs.

(3) Where an accused is on remand, the Commissioner of Police shall cause the accused to be brought before a Master at the time and place fixed by the warrant for that purpose.

(4) This section shall apply to every person who is remanded under this Act.

(5) A remand warrant under this section shall be in the form set out in Schedule 4.

Schedule 4

PART III

SUFFICIENCY HEARING

19.(1) A sufficiency hearing shall be held by a Master to determine whether there is sufficient evidence to put the accused on trial for an indictable offence.

(2) A sufficiency hearing shall be held in open court unless a written law or Rules made under this Act provide otherwise.

(3) Subject to subsection (5), the prosecutor and the accused shall attend a sufficiency hearing.

(4) If an accused is not represented by an Attorney-at-law at a sufficiency hearing and—

- (a) requests legal representation, a date shall be fixed by which the accused shall retain an Attorney-at-law to represent him or apply for legal aid; or
- (b) refuses legal representation, a record shall be made of the accused's refusal of legal representation.

(5) A sufficiency hearing may proceed in the absence of the accused, except where the accused proves to the Master—

- (a) that he is ill or injured and that the nature of the illness or injury is such as to make him unable to attend; or
- (b) any other matter which the Master deems fit to allow for the sufficiency hearing to be adjourned.

(6) A witness is not required to attend a sufficiency hearing unless his presence is requested by the Master.

Review of evidence

20.(1) A Master conducting a sufficiency hearing shall—

- (a) subject to section 19, review only the witness statements, other documentary evidence and properly identified exhibits filed or produced, as the case may be, by the prosecutor and the accused; and
- (b) hear submissions from the prosecutor and the accused, if such submissions are made.

(2) The witness statements and other documentary evidence filed by the prosecutor shall disclose sufficient

evidence that an indictable offence has been committed and that the accused committed it.

(3) Where an accused is not represented by an Attorney-at-law at a sufficiency hearing, the Master may, in the interest of justice, cause all witness statements and other documentary evidence filed by the prosecutor to be read aloud in the presence and hearing of the accused.

(4) At a sufficiency hearing, an exhibit referred to in a witness statement shall be produced before the Master and the Master shall mark each exhibit for identification in relation to its relevant witness statement.

21.(1) A witness statement filed by the prosecutor shall not be admissible as evidence at a sufficiency hearing unless the conditions set out in this section are satisfied. Admissibility of prosecution witness statements

(2) The conditions referred to in subsection (1) are that—

- (a) a signed original statement was recorded by a police officer or by the witness;
- (b) a typewritten copy of the original statement is attached to the original statement, where the original statement is handwritten;
- (c) the original statement is purported to be signed by the witness in the presence of a police officer and is dated;
- (d) the original statement was sworn before a Justice of the Peace and authenticated by a certificate signed by—
 - (i) a Justice of the Peace; or
 - (ii) where the statement is prepared outside of Trinidad and Tobago, a Notary Public or such other duly authorised official from the jurisdiction in which the statement is prepared; and

(e) the original statement contains a declaration by the witness who made the statement to the effect that it is true to the best of his knowledge and belief and that he made the statement knowing that, if it were tendered in evidence, he would be liable to prosecution if he wilfully stated in it anything which he knew to be false or did not believe to be true.

(3) A witness statement of a person under the age of eighteen years shall be taken in the presence of an adult of his choice.

(4) The following conditions shall also apply in relation to a witness statement filed by the prosecutor:

- (a) where the statement is made by a witness under eighteen years of age, it shall state his age and that an adult of his choice was present with him when it was made;
- (b) where the statement is made on behalf of a witness, it shall be signed by both the witness and the person who made it;
- (c) where the statement is made on behalf of a witness who cannot read, the person who made it shall read it to him before he signs it and it shall be accompanied by a declaration by the person who made it that it was so read to the witness and he appeared to understand it and he agreed to it;
- (d) where the statement is made on behalf of a witness who cannot write, the person who made the statement shall read it to the witness before he puts his mark or thumbprint on it and it shall contain a declaration by the person who made it that it was read to the witness and he appeared to understand it and he agreed to it; and

(e) where the statement refers to any other document as an exhibit, the statement shall be accompanied by a copy of that document.

(5) Depositions taken and exhibits admitted in proceedings instituted prior to the coming into force of this Act shall be admissible as evidence at a sufficiency hearing.

(6) Notwithstanding subsections (1) to (5), an audio or video recorded statement and other audio or video recorded evidence shall, in accordance with Rules of Court or any other written law, be admissible as evidence at a sufficiency hearing.

(7) For the purposes of this Act, audio or video recorded statements and evidence referred to in subsection (6) shall be regarded as documentary evidence.

(8) Notwithstanding subsections (1) to (5), a transcript of proceedings before the Integrity Commission or a Commission of Enquiry or evidence obtained under a treaty referred to in section 40 of the Mutual Assistance in Criminal Matters Act, shall, in accordance with Rules of Court or any other written law, be admissible as evidence at a sufficiency hearing. Chap. 11:24

22. Where, at a sufficiency hearing, the prosecutor wishes to adduce further evidence from a witness who has or has not already given a statement, the Master, if he considers it just and expedient to do so, may, on the application of the prosecutor, allow the prosecutor no more than seven days to file and serve on the accused, such additional witness statements and other documentary evidence as the Master thinks fit. Further evidence

23. For the purposes of a sufficiency hearing, a *prima facie* case against an accused is made out where a Master finds that the evidence, taken at its highest, is such that a jury, properly directed, could properly return a verdict of guilty. Prima facie case

24. (1) Subject to section 25(1) and (2), where, after reviewing the evidence submitted by the prosecutor and Discharge of accused

the accused, a Master finds that a *prima facie* case against the accused is not made out, the Master shall discharge the accused and any recognisance taken in respect of the charge shall be void.

(2) Where a Master discharges an accused, the Master shall state his reasons for so doing in open court.

(3) Where an accused is discharged, the Master shall direct that anything that was seized under section 5 be restored to the person from whom it was taken, unless—

(a) the Master is authorized or required by law to dispose of it otherwise; or

(b) an application is made by the Director of Public Prosecutions under subsection (4).

(4) Where an accused is discharged, the Master shall, on the written request of the Director of Public Prosecutions, transmit within fourteen days to the Director of Public Prosecutions the record of the proceedings, and if the Director of Public Prosecutions, on perusing and considering the statements and other documents, is of the opinion that the accused ought not to have been discharged, he may apply to a Judge for a warrant for the arrest of the accused and for an order to put the accused on trial.

(5) A request under subsection (4) shall be made within twenty-eight days of the discharge of the accused.

(6) An application under subsection (4) shall be made *inter partes* and within three months of the receipt of the documents under that subsection and a copy of the application shall be made available to the accused and his Attorney-at-law.

(7) Where the Judge is of the opinion that the evidence, as given before the Master, was sufficient to put the accused on trial, he may issue a warrant for the arrest of the accused and for his committal to prison, there to be kept until discharged in due course of law or

granted bail, and every person so proceeded against shall be further prosecuted in the like manner as if he had been put on trial by the Master by whom he was discharged.

(8) An appeal by the State from a decision of a Judge under subsection (4) shall lie as of right to the Court of Appeal.

(9) Where an accused is discharged with respect to an offence and additional evidence of a material nature in support of that offence becomes available, the prosecutor may apply to a Master for a further sufficiency hearing and the Master, if he thinks that a further sufficiency hearing should be held, shall—

- (a) allow the prosecutor no more than seven days to file in the High Court and serve on the accused, such additional witness statements and other documentary evidence as the Master thinks fit;
- (b) set a date for the hearing; and
- (c) issue a summons or warrant to compel the attendance of the accused at the hearing.

25.(1) Except where an indictment is filed under section 6(2), where, after reviewing the evidence submitted by the prosecutor and the accused, a Master finds that a *prima facie* case is made out against the accused for any indictable offence, the Master shall order that the accused be put on trial for that offence.

Order to put accused
on trial

(2) Where an indictment is filed under section 6(2) and a Master, after reviewing the evidence submitted by the prosecutor and the accused, finds that a *prima facie* case—

- (a) is made out against the accused for the offence specified in the indictment, the Master shall order that the accused be put on trial for that offence; or
- (b) is not made out against the accused for the offence specified in the indictment, the Master shall discharge the accused.

(3) Section 24 shall apply to the discharge of an accused under subsection (2)(b).

(4) On ordering that an accused be put on trial, a Master may—

(a) remand the accused in custody; or

(b) release the accused on bail in accordance with the Bail Act,

and the Master shall bind over witnesses in accordance with section 30 and satisfy himself that the case is, subject to the preferring of an indictment under section 27, ready for trial.

(5) An order to put an accused on trial shall be in the form set out in Schedule 5.

Schedule 5

Transmission and custody of documents and exhibits relating to a case

26.(1) Where an order to put an accused on trial has been issued, the Master shall, without delay, transmit to the Director of Public Prosecutions the complaint or indictment as the case may be, the witness statements and other documentary evidence, any evidence submitted by the accused, the order to put the accused on trial, any recognisances entered into by the accused and any other relevant documents.

(2) All exhibits, other than documentary exhibits, shall, unless the Master otherwise directs, be taken charge of by the Police and shall be produced at the sufficiency hearing and at the trial.

(3) Where the original of—

(a) a complaint or indictment;

(b) a witness statement or any documentary exhibit thereto;

(c) a statement of an accused;

(d) an order to put an accused on trial;

(e) a warrant of committal for the trial; or

(f) any recognisance entered into,

is lost or destroyed, then in all proceedings at the trial, secondary evidence of the contents of such document may, in the discretion of the Court be admitted in every case in which the original document would be admissible.

(4) Without prejudice to any other method by which such fact may be proved—

(a) the fact that any document is lost or destroyed may be proved by the testimony of the officer in whose charge the document was last entrusted; and

(b) the fact that a document is a copy may be authenticated—

(i) where the document is a private document, by any evidence with which secondary evidence as to private documents may be authenticated; and

(ii) where the document is a public document, by a certified copy thereof issued by the officer to whose custody the original was entrusted.

27.(1) Subject to subsections (2) and (3), where, on Discretion of DPP to prefer indictment perusing and considering all the documents transmitted to him under section 26(1), the Director of Public Prosecutions is of the opinion that the accused should be put on trial for an indictable offence, the Director of Public Prosecutions may prefer an indictment against the accused.

(2) Except in the case of any matter listed in Schedule 6, where the Director of Public Prosecutions Schedule 6 does not prefer an indictment against the accused within twelve months of the making of an order to put the accused on trial, the accused may apply to a Judge for a discharge and the Judge may discharge the

accused if, having considered the reason for the delay in preferring an indictment, he is satisfied that in all the circumstances of the case it would be just to do so.

(3) Where the Director of Public Prosecutions prefers and files an indictment, a sufficiency hearing shall only be conducted in the following instances, on the request of the Director of Public Prosecutions:

- (a) where at the close of an inquest, a Coroner is of the opinion that sufficient grounds are disclosed for making a charge on indictment against any person pursuant to section 28 of the Coroners Act;
- (b) where a co-accused is arrested at any time before the arraignment of an accused who has already been indicted and it is desired to join them both in the same indictment; or
- (c) in the case of an offence of a violent or sexual nature and where there is a child witness, or an adult witness who has been assessed as one subject to threats, intimidation or elimination.

Chap. 6:04

(4) The Minister may, by Order subject to negative resolution of Parliament, amend Schedule 6.

Schedule 6

Accused admitting
guilt at sufficiency
hearing

28.(1) Where, at the sufficiency hearing, other than one in which the charge is for treason or murder, an accused who is represented by an Attorney-at-law informs the Master that he is guilty of the charge, the Master—

- (a) shall order that the accused appear before a Judge for sentence within twenty-eight days;
- (b) shall—
 - (i) by warrant, commit the accused to prison until he is brought before a Judge to be sentenced; or

- (ii) grant the accused bail and fix the amount thereof; and
- (c) shall, as soon after the committal of the accused to prison as is practicable, transmit to the Director of Public Prosecutions the record of the proceedings statements and other documents referred to in section 26(1),

and the Director of Public Prosecutions shall prefer and file an indictment in the High Court.

(2) The Director of Public Prosecutions shall, upon preferring and filing an indictment under subsection (1), cause a copy of the indictment to be served on the accused without delay.

(3) Where an accused is brought before a Judge for sentencing, the statement of the accused made under subsection (1) shall be received in evidence upon its mere production without further proof.

29. (1) A witness statement admitted as evidence by a Master at a sufficiency hearing into an alleged offence in accordance with section 21 may, if the conditions set out in this section are satisfied, be admitted and read, without further proof, as evidence in the trial of the accused, whether for that offence or for any other offence arising out of the same transaction or set of circumstances as that offence.

(2) The conditions referred to in subsection (1) are that—

- (a) the prosecutor and the accused or his Attorney-at-law have agreed that the attendance at the trial of the witness is unnecessary because of—
 - (i) anything contained in any statement by the accused;
 - (ii) the accused having pleaded guilty to the charge; or

- (iii) the evidence of the witness being merely of a formal nature; or
- (b) it is proved at the trial by the oath of a credible witness, that the witness—
 - (i) is deceased;
 - (ii) is unfit, by reason of his bodily or mental condition, to attend as a witness;
 - (iii) is outside of Trinidad and Tobago and it is not reasonably practicable to secure his attendance or a certificate from the Chief Immigration Officer stating that the witness is outside of the country is submitted;
 - (iv) cannot be found after all reasonable steps have been taken to find him; or
 - (v) is kept away from the proceedings by threats of bodily harm and no reasonable steps can be taken to protect the person.

(3) The party intending to tender a statement in evidence under this section shall, at least twenty-one days before the trial at which the statement is to be tendered, notify every other party to the proceedings as to the statement to be tendered, and as to the person who made the statement.

(4) Where the party intending to tender a statement in evidence under this section has called, as a witness in the proceedings, the person who made the statement, the statement shall be admissible only with the leave of the court.

(5) Where a statement of a witness is admitted as evidence at a trial in accordance with subsections (1) and (2)—

- (a) any evidence which, if that witness had been called would have been admissible as

relevant to his credibility as a witness, shall be admissible at the trial for that purpose;

- (b) evidence may, with the leave of the Court, be given at the trial of any matter which, if that witness had been called as a witness at the trial, could have been put to him in cross-examination as relevant to his credibility as a witness but which could not have been adduced by the party cross-examining him;
- (c) evidence tending to prove that, whether before or after that witness made the statement, he made, whether orally or in a document or otherwise, another statement inconsistent therewith, shall be admissible for the purpose of showing that that witness has contradicted himself.

(6) Depositions taken in proceedings instituted prior to the coming in force of this Act are permitted to be used at the sufficiency hearing provided that the conditions in this section are satisfied.

(7) For the purposes of subsection (2)(b)(iii), a certificate from the Chief Immigration Officer stating that a witness is outside of the country shall be *prima facie* evidence of that fact.

30.(1) The Master holding the sufficiency hearing shall, in the form set out in Schedule 7, bind over every witness for the prosecution whose statement has been submitted to the Court, and every witness for the defence not being merely a witness to the character of the accused whose evidence is, in his opinion, material, to give evidence at the trial of the accused person before the Court.

Binding over
witnesses to attend
trial
Schedule

(2) Every recognisance so entered into shall specify the name and surname of the person entering into it, his occupation or profession, if any, the place of his residence, and the name and number, if any, of any street in which it may be.

(3) Such recognisance may be either at the foot of the witness statement or separate from it, and shall be acknowledged by the person entering into it, and be subscribed by the Master before whom it is acknowledged.

(4) Any witness who refuses, without reasonable excuse, to enter into such recognisance may be committed to prison by warrant by the Master holding the enquiry, there to be kept until after the trial, or until the witness enters into such recognisance before a Master; but if the accused person is afterwards discharged, any Master may order any such witness to be discharged.

(5) Where a person charged before a Master with an indictable offence is ordered to be put on trial and it appears to the Master, after taking into account anything which may be said by the accused or the prosecutor, that the attendance at the trial of a witness is unnecessary because of—

- (a) anything contained in any statement by the accused;
- (b) the accused having pleaded guilty to the charge; or
- (c) the evidence of the witness being merely of a formal nature,

then the Master shall bind him over to attend the trial conditionally upon notice being given to him and not otherwise and transmit with the witness statements a statement in writing of the names, addresses and occupations of the witnesses who are or who are to be treated as having been bound over to attend the trial conditionally.

(6) The Master shall, on ordering that an accused be put on trial, inform him of his right to require the attendance at the trial of such witness and of the steps which he is required take to enforce the attendance of the witness.

(7) The Director of Public Prosecutions shall, at least seven days before the day fixed for the trial, inform the accused of the names of the witnesses, and the Director of Public Prosecutions or the accused shall give notice to the Registrar at least four days before the day fixed for the trial that he desires any such witness to attend at the trial, and the Registrar, on receipt of the notice, shall then notify the witness that he is required to attend in pursuance of his recognisance.

31.(1) No person shall print or publish or cause or ^{Restriction on publication of report of sufficiency hearing} procure to be printed or published, in relation to any sufficiency hearing, any particulars other than the following:

(a) the name, image, address and occupation of an accused who—

(i) has attained the age of eighteen years or over; and

(ii) is not charged with an offence under the Sexual Offences Act; and ^{Chap. 11:28}

(b) a concise statement of the charge and the defence in support of which evidence has been given.

(2) A person who contravenes this section commits an offence and is liable on summary conviction to a fine of two hundred and fifty thousand dollars and to imprisonment for five years.

PART IV MISCELLANEOUS

32.(1) The Rules Committee established by the ^{Rules of Court Chap. 4:01} Supreme Court of Judicature Act may make Rules of Court for the purpose of proceedings under this Act.

(2) Rules of Court made under subsection (1) shall be subject to negative resolution of Parliament.

(3) Rules of Court made under subsection (1) may provide for sanctions to be imposed by a Master for failure to comply with those Rules of Court.

Repeal and savings
Chap. 12:01

33.(1) The Indictable Offences (Preliminary Enquiry) Act is repealed.

(2) Notwithstanding subsection (1), the Indictable Offences (Preliminary Enquiry) Act shall continue to apply to proceedings which were instituted prior to the coming into force of this Act where neither the prosecutor nor the accused elects to have the case determined in accordance with that Act.

Discharge on the
grounds of delay
Schedule 6

34.(1) Except in the case of matters listed in Schedule 6, where the proceedings are instituted on or after the coming into force of this Act and the Master is not, within twelve months after the proceedings are instituted, in a position to order that the accused be put on trial, the Master may discharge the accused.

(2) On an application by the accused, a Judge shall discharge an accused if the proceedings were instituted prior to the coming into force of this Act and the trial has not commenced within seven years after the proceedings were instituted, except—

(a) in the case of matters listed in Schedule 6; or

(b) where the accused has evaded the process of the Court and the trial on indictment has, for that reason, not commenced.

Consequential
amendments
Schedule 8

35.(1) The written laws mentioned in the First Column of Schedule 8 are amended to the extent specified in the Second Column of that Schedule.

(2) A reference in a written law to a preliminary enquiry under the Indictable Offences (Preliminary

Enquiry) Act, repealed by this Act shall, where applicable, be construed as a reference to proceedings under this Act.

SCHEDULE I

[Section 11(2)(h)]

REPUBLIC OF TRINIDAD AND TOBAGO

**THE ADMINISTRATION OF JUSTICE
(INDICTABLE PROCEEDINGS) ACT, 2011**

SCHEDULING ORDER

Case No.

Complainant/The State

v

Accused

Before: (Name of Master)

Court:

Date of Hearing:

Appearances:

Order:

1. Accused to retain an Attorney-at-law*/Order for legal aid to be satisfied* on or before
2. Prosecutor to file and serve documents on or before
3. Defence to file and serve documents on or before
4. Either party may apply for extension of time to file and serve documents on
5. Sufficiency hearing fixed for

Dated this day of 20....

*Delete if not applicable.

SCHEDULE 2

[Section 12(1)]

**INDICTABLE OFFENCES WHICH MAY BE
TRIED SUMMARILY**

1. Offences under section 17 of the House of Representatives (Powers and Privileges) Act, Chap. 2:02.
2. (a) Offences referred to in the following provisions of the Criminal Offences Act, Chap. 11:01, that is to say:
 - (i) section 2 in so far as it relates to the offence of kidnapping;
 - (ii) section 4;
 - (iii) section 5, except in so far as it relates to blasphemy, blasphemous libel, conspiracy, sedition and seditious libel;
 - (iv) section 6; and
 - (v) section 7, except in so far as it relates to conspiracy; and(b) Offences under section 9 of that Act.
3. Offences under sections 3, 4 and 5 of the Riot Act, Chap. 11:05.
4. Offences under sections 5, 6, 10, 11, 12, 14, 16, 17 and 19 of the Coinage Offences Act, Chap. 11:15.
5. Offences under sections 14, 25, 26, 27, 28, 29, 30 and 62 of the Offences Against the Person Act, Chap. 11:08.
6. Offences under sections 4, 5, 6, 7, 10, 11, 12, 13, 14(a), 15, 16, 17, 18, 19, 21, 23, 27, 28, 29 and 30, 34(1), 34(3), 35 and 44 of the Larceny Act, Chap. 11:12.
7. Offences under section 4(2)(a) of the Forgery Act, Chap. 11:13, in relation to any document being an authority or request for the payment of money or for the delivery or transfer of goods and chattels, where the amount of the money or the value of the goods or chattels does not exceed two thousand five hundred dollars, and, under section 10(a) of the said Act; where the amount of the money or the value of the property in respect of which the offence is

committed does not exceed two thousand five hundred dollars; offences under sections 6 and 7 of the said Act; and under section 9 thereof in so far as the said section 9 applies to the uttering of a forged document the forgery of which is an offence triable summarily by virtue of this paragraph; offences under sections 12 and 13 of the said Act.

8. Offences under sections 8, 9, 10, 15, 17, 18, 19, 20, 23, 27, 28, 29, 32(1), 33, 34, 42, 45 and 46 of the Malicious Damage Act, Chap. 11:06.

9. Offences under sections 3, 4 and 5 of the Prevention of Corruption Act, Chap. 11:11.

10. Offences under sections 5, 6, 7, 8 and 9 of the Perjury Act; and under section 10 thereof in so far as it relates to the said offences; offences under section 11 of the said Act, Chap. 11:14.

11. Offences under section 8 of the Children Act, Chap. 46:01.

12. Offences under section 57 of the Mental Health Act, Chap. 28:02.

13. Offences under the Venereal Disease Act, Chap. 28:52.

14. Offences under section 47 of the Nurses and Midwives Registration Act, Chap. 29:53.

15. Offences under sections 9 and 10 of the Cremation Act, Chap. 30:51.

16. Offences under section 16(8) of the Waterworks and Water Conservation Act, Chap. 54:41.

17. Offences under section 22(1) of the Motor Vehicles Insurance (Third-Party Risks) Act, Chap. 48:51.

18. Offences under section 15 of the Aliens (Landholding) Act, Chap. 58:02.

19. Offences under sections 3 and 4 of the Foreign Labour Contracts Act, Chap. 88:11.

20. Offences under section 12 of the Truck Act, Chap 88:07.

21. Offences under section 12 of the Mines, Borings and Quarries Act, Chap. 61:01

22. Offences under section 39 of the Births and Deaths Registration Act, Chap. 44:01.

23. Offences under sections 37, 38, 40 and 41 of the Marriage Act, Chap. 45:01.

24. Offences under sections 21, 22 and 23 of the Hindu Marriage Act, Chap. 45:03.

25. Offences under sections 3 and 10 of the Merchandise Marks Act, Chap. 82:82.

26. Offences under section 132 of the Spirits and Spirit Compounds Act, Chap. 87:54.

27. Offences under section 78 of the Stamp Duty Act, Chap. 76:01.

28. Offences under sections 47, 48, 50 and 51 of the Post Office Act, Chap. 47:01.

29. Offences under sections 71 and 72 of the Trinidad and Tobago Electricity Commission Act, Chap. 54:70.

30. Offences under section 51 of the Friendly Societies Housing Corporation Act, Chap. 33:05.

31. Any offence that is by virtue of any written law both an indictable offence and a summary conviction offence.

32. Offences under sections 26 and 27 of the Muslim Marriage and Divorce Act, Chap. 45:02.

33. Attempted suicide.

34. Aiding, abetting, counselling or procuring the commission of any offence mentioned in the preceding paragraphs of this Schedule; attempting to commit any such offence; and attempting to commit any offence which is both an indictable offence and a summary offence.

35. Offences under sections 7, 8, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 24 of the Sexual Offences Act, Chap. 11:28.

36. Any offence consisting in the incitement to commit a summary offence or to commit any offence mentioned in paragraphs 1 to 35 of this Schedule.

SCHEDULE 3

[Section 17(4)]

**REMAND WARRANT FOR SAFE CUSTODY
DURING ADJOURNMENT**

REPUBLIC OF TRINIDAD AND TOBAGO

A.B. Complainant/The State

v

C.D. Accused

To all Constables and to the Keeper of[Jail] Prison.

Whereas on the day of, 20, complaint was made/an indictment was brought before me, the undersigned Master, for that C.D.¹

And whereas the hearing of the same is adjourned to day, the day of, 20, ato'clock m., at and it is necessary that the said C.D. should, in the meantime, be kept in safe custody: This is to command you forthwith to convey the said C.D. to the [Jail] Prison, and there deliver him to the Keeper of the said [Jail] Prison, together with this warrant: And I hereby command you, the said Keeper, to receive the said C.D. into your custody in the said [Jail] Prison, and there safely keep him until the said day of, 20, when you are hereby required to cause him, the said C.D., to be conveyed and be at the time and place to which the said hearing is so adjourned as aforesaid, before the Master in the said Court, to answer further the said complaint and to be further dealt with according to law.

Dated this day of, 20.....

(Signed)
(Master)

¹State concisely the substance of the complaint/indictment.

SCHEDULE 4

[Section 18(5)]

REMAND WARRANT

REPUBLIC OF TRINIDAD AND TOBAGO

A.B. Complainant/The State

v

C.D. Accused

To(Constable), and to, Keeper of [Jail] Prison.

Whereas C.D. was this day charged before me the undersigned Master on the complaint of / on indictment, for that [state shortly the offence]:

These are therefore to command you, the said..... to take the said C.D. and him safely to convey to the [Jail] Prison in , and there to deliver him to the Keeper thereof, together with this precept: and I do hereby command you, the said Keeper of the said Prison, to receive the said A.B. into your custody in the said Prison and there safely keep him until he shall be thence delivered by due course of law.

Date (Master)

SCHEDULE 5

FORM 1

REPUBLIC OF TRINIDAD AND TOBAGO

[Section 25(3)]

**IN THE HIGH COURT OF JUSTICE
(CRIMINAL DIVISION)**

No. 20

The Complainant/The State

And

Accused

BEFORE:

The Honourable Master

APPEARANCES:

ORDER TO PUT ACCUSED ON TRIAL

UPON HEARING State Counsel and Counsel for the Accused,
The Accused is hereby ordered to be put on trial before the High Court.

And I hereby certify that the case against the Accused is, subject to the preferring of an indictment by the Director of Public Prosecutions, ready for trial.

Dated this day of , 20

Master of the High Court

Notes:

1. This Order shall be served on the Director of Public Prosecutions, the Accused, or his Counsel and the Commissioner of Police.

2. The Director of Public Prosecutions may prefer an indictment within a reasonable time or decline to prefer an indictment.

SCHEDULE 6

[Sections 27(2) and (4)
and 34(1) and (2)]

**OFFENCES TO WHICH DISCHARGE ON GROUNDS
OF DELAY DO NOT APPLY**

1. Treason
2. Offences against the person, namely—
 - (a) Murder;
 - (b) Conspiring or soliciting to commit murder;
 - (c) Manslaughter;
 - (d) Shooting or wounding with intent to do grievous bodily harm, unlawful wounding;
 - (e) Assault occasioning bodily harm.
3. Offences involving kidnapping, namely—
 - (a) Kidnapping;
 - (b) Kidnapping for ransom;
 - (c) Knowingly negotiating to obtain a ransom.
4. Offences of a sexual nature, namely—
 - (a) Rape;
 - (b) Grievous sexual assault;
 - (c) Sexual intercourse with female under fourteen years;
 - (d) Sexual intercourse with female between fourteen and sixteen years;
 - (e) Sexual intercourse with male under sixteen years;
 - (f) Incest;
 - (g) Sexual intercourse with adopted minor, etc.;
 - (h) Sexual intercourse with minor employee;
 - (i) Sexual intercourse with mentally subnormal person;
 - (j) Buggery.
5. Drug trafficking, namely—
 - (a) Trafficking in a dangerous drug;
 - (b) Possession of a dangerous drug for the purpose of trafficking;

- 6. Unlawful possession of a firearm or ammunition;
- 7. Offences under the Anti-Gang Act, 2011 (Act No. 10 of 2011);
- 8. Larceny of a motor vehicle;
- 9. Attempts to commit offences identified in items 1 to 4.

SCHEDULE 7

[Section 30(1)]

RECOGNISANCE

REPUBLIC OF TRINIDAD AND TOBAGO

Recognisance of Witnesses in High Court Cases

Be it remembered that on the _____ day of _____
 in the year of Our Lord, two thousand and _____ at the
 High Court.

of
 of
 of
 of
 of
 of
 of

personally came before me the undersigned Master of the High Court and acknowledged themselves severally and respectively to owe to the State the sum of five thousand dollars each the same to be levied by Sale and Distress of their respective Lands, Tenements and Hereditaments, Goods, Chattels and other property to the use of the State, if the said several persons so bound shall respectively fail in the conditions endorsed.

Witness to signature marks:

Taken, take and acknowledged the day and year first above-mentioned at the High Court, before me.

Master
[P.T.O.]

The condition of the within recognisance is such, that, whereas

was this day charged before me the undersigned
Master, within-mentioned for that on
the day of 20 , at
and within the limits of the said County did

if therefore the said

shall each appear at the next Session for the trial of criminal cases of the Supreme Court to be holden in Port-of-Spain or whenever called upon and there give such evidence as they respectively know upon any Indictment that may be preferred against the said accused

then the said recognisance shall be void but else shall stand in full force and virtue.

Master

SCHEDULE 8

[Section 35]

CONSEQUENTIAL AMENDMENTS

First Column	Second Column
Written Law	Extent of Amendment
1. Supreme Court of Judicature Act, Chap. 4:01	<p>A. In section 2, in the definition of “inferior Court”, insert after the the words “the Court of any”, the words “Master,”.</p> <p>B. In section 36(1), insert after the words “order any Judge,”, the words “Master,”.</p> <p>C. In section 65A—</p> <p style="padding-left: 2em;">(a) in subsection (1), insert after the words “Rules of Court”, the words “or any other written law”;</p> <p style="padding-left: 2em;">(b) in subsection (2), delete the words “or Rules of Court” and substitute the words “, Rules of Court or any other written law”.</p> <p>D. In section 65B—</p> <p style="padding-left: 2em;">(a) in subsection (1)—</p> <p style="padding-left: 4em;">(i) insert after the words “under this Act”, the words “or any other written law”;</p> <p style="padding-left: 4em;">and</p> <p style="padding-left: 4em;">(ii) insert after the words “subject to this Act” in both places where they occur, the words “or the written law”;</p> <p style="padding-left: 2em;">(b) in subsection (2), insert after the words “under this Act”, the words “or any other written law”;</p> <p style="padding-left: 2em;">(c) in section 65C(1), insert after the words “this Act”, the words “or any other written law”.</p>

- E. In the Schedule, in rule 2, in the definition of “exhibits”, delete the words “depositions of witnesses examined before the committing Magistrate or Justice” and substituting the words “depositions and statements of witnesses examined before the committing Master”.
- F. In the Schedule, in rule 5(3)—
- (a) delete the words “Magistrate or Justice committing such person for trial” and substitute the words “Master putting such person on trial”;
 - (b) delete the words “depositions taken in relation to such person” and substitute the words “witness statements”;
 - (c) delete the words “such Magistrate or Justice” and substitute the words “such Master”.
- G. In the Schedule, in rule 17(2), delete the words “original depositions of witnesses examined before the committing Magistrate or Justice” and substitute the words “original witness statements and depositions examined before the committing Master”.
- H. In the Schedule, in rule 42, delete the words “Magistrate for the apprehension of a person charged with any indictable offence under the provisions of the Indictable Offences (Preliminary Enquiry) Act” and substitute the words “Master for the apprehension of a person

charged with any indictable offence under the provisions of the Administration of Justice (Indictable Proceedings) Act, 2011”.

2. Summary Courts Act, Chap. 4:20
- A. Repeal sections 94 and 100.
- B. In section 97, delete the words “under the circumstances mentioned in this Act” and substitute the words “in accordance with the Administration of Justice (Indictable Proceedings) Act, 2011”.
3. Bail Act, Chap. 4:60
- A. In section 3(1), in the definition of “Court”, insert after the word “Judge” in both places where it occurs, the words “, Master”.
- B. In section 6A—
- (a) insert after subsection (1), the following subsection:
- “(1A) Where a person is refused or granted bail by a Master, that person or the prosecution, as the case may be, may appeal the decision of the Master to the Court of Appeal.”;
- (b) in subsection (2), insert after the words “subsection (1)”, the words “or (2)”;
- (c) in subsection (3), insert after the words “subsection (1)”, the words “or a decision of a Master to grant bail under subsection (1A)”;
- (d) in subsection (3)(a), insert after the words “High Court”, the words “or Master, as the case may be”.

4. Evidence Act,
Chap. 7:02
- A. In section 15F, delete the words “the Indictable Offence (Preliminary Enquiry) Act” and substitute the words “the Administration of Justice (Indictable Proceedings) Act, 2011”.
- B. In section 21, in the definition of “legal proceedings”, insert after the words “Judge,”, the word “Master”.
5. Legal Aid and Advice Act, Chap. 7:07
- A. In section 16—
- (a) in the marginal note, delete the words “in Courts of summary jurisdiction” and substitute the words “by Master or Magistrate”;
- (b) in subsection (1), insert after the words “legal aid”, the words “by a Master or a Magistrate”;
- (c) delete the words “of summary jurisdiction”, wherever they occur.
- B. In section 17, delete the words “committed for trial under the Indictable Offences (Preliminary Enquiry) Act” and substitute the words “put on trial under the Administration of Justice (Indictable Proceedings) Act, 2011”.
6. Perjury Act, Chap. 11:14
- In section 12(1), insert after the words “Judge,”, the word “Master”.
7. Criminal Procedure Act, Chap. 12:02
- A. Delete the words “the Indictable Offences (Preliminary Enquiry) Act” wherever they occur and substitute in each place the words “the Administration of Justice (Indictable Proceedings) Act, 2011”.
- B. Repeal section 59(3).

8. Criminal Procedure (Corporations) Act, Chap. 12:03
- A. Delete the word “Magistrate” wherever it occurs and substitute in each place, the word “Master”.
 - B. In section 3(1), delete the words “the Indictable Offences (Preliminary Enquiry) Act” and substitute the words “the Administration of Justice (Indictable Proceedings) Act, 2011”.
 - C. In the Schedule, delete the word “Magistrate” and the word “depositions” and substitute the word “Master” and the words “witness statements and documentary evidence” respectively.

Passed in the House of Representatives this day
of , 2011.

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 members of the House.

Clerk of the House

I confirm the above.

Speaker

Passed in the Senate this day of ,
2011.

Clerk of the Senate

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 members of the Senate.

Clerk of the Senate

I confirm the above.

President of the Senate

No. 31 of 2011

SECOND SESSION
TENTH PARLIAMENT
REPUBLIC OF
TRINIDAD AND TOBAGO

BILL

AN ACT to repeal and replace the
Indictable Offences (Preliminary
Enquiry) Act, Chap. 12:01 and to
provide for a system of pre-trial
proceedings relating to indictable
offences and other related matters

Received and read the

First time

Second time

Third time
