

*Legal Supplement Part A to the "Trinidad and Tobago Gazette", Vol. 46,
No. 43, 14th March, 2007*

Fifth Session Eighth Parliament Republic of
Trinidad and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 5 of 2007

[L.S.]

AN ACT to amend the Evidence Act, Chap. 7:02

[Assented to 9th March, 2007]

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

1. This Act may be cited as the Evidence Short title
(Amendment) Act, 2007.

Sections 15B, 15C, 15D, 15E, 15F and 15G inserted Chap. 7:02

2. The Evidence Act is amended by inserting after section 15A the following sections:

“Proof of criminal conduct

15B. In any criminal proceedings, evidence of criminal conduct which may be contained in a document may be admissible in evidence if the document—

- (a) is the best or only evidence of that conduct which is alleged by the prosecution; and
- (b) is obtained by or under the hand of the Attorney General in any matter related to mutual legal co-operation pursuant to the Mutual Assistance in Criminal Matters Act, 1997.

Act No. 39 of 1997

Admissibility of first hand heresay statements in criminal proceedings

15C. (1) Subject to subsection (2), a statement made by a person in a document shall be admissible in criminal proceedings as evidence of any fact of which direct oral evidence by him would be admissible if it is proved to the satisfaction of the court that such person—

- (a) is deceased;
- (b) is unfit, by reason of his bodily or mental condition, to attend as a witness;
- (c) is outside of Trinidad and Tobago and it is not reasonably practicable to secure his attendance;
- (d) cannot be found after all reasonable steps have been taken to find him; or
- (e) is kept away from the proceedings by threats of bodily harm and no reasonable steps can be taken to protect the person.

(2) Leave may be given by the court under subsection (1)(e) only if the court considers that the statement ought to be admitted in the interest of justice, having regard to—

- (a) the statement's contents;
- (b) any risk that its admission or exclusion will result in unfairness to any party to the proceedings (and in particular to how difficult it will be to challenge the statement if the person who made the statement does not give oral evidence); and
- (c) any other relevant circumstances.

(3) The party intending to tender a statement in evidence under this section shall, at least twenty-one days before the hearing 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.

Admissibility
of evidence as
to credibility
of maker of
statement

15D. (1) Where in any criminal proceedings a statement made by a person who is not called as a witness in those proceedings is given in evidence pursuant to section 15C—

- (a) any evidence which, if that person had been called would have been admissible as relevant to his

credibility as a witness, shall be admissible in the proceedings for that purpose;

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

(2) Reference in subsection (1) to a person who made the statement and to his making the statement shall be construed respectively as including references to the person who supplied the information from which the document containing the statement was derived and to his supplying that information.

Power of
court to
exclude
evidence

15E. It is hereby declared that in any criminal proceedings the court may exclude evidence under sections 15B, 15C, except subsection (2), and 15D if, in the opinion of the court, the prejudicial effect of evidence outweighs its probative value.

Application to preliminary enquiry Chap. 12:01 15F. Sections 15B, 15C, 15D and 15E shall also apply to a preliminary enquiry held under the Indictable Offences (Preliminary Enquiry) Act.

Transitional 15G. This Act, upon commencement, shall not apply to cases where a person is charged for an offence and is already brought before any court.”.

Passed in the Senate this 6th day of February, 2007.

J. SANDY
Acting Clerk of the Senate

Passed in the House of Representatives this 15th day of February, 2007.

J. SAMPSON
Clerk of the House

House of Representatives amendments agreed to by the Senate on this 6th day of March, 2007.

J. SANDY
Acting Clerk of the Senate