

THE MISCELLANEOUS AMENDMENTS BILL, 2020

EXPLANATORY NOTES

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

This Bill seeks to amend the Summary Courts Act, Chap. 4:20; the Oaths Act, Chap. 7:01; the Limitation of Certain Actions Act, Chap. 7:09; the Summary Offences Act, Chap. 11:02; the Dangerous Drugs Act, Chap. 11:25; the Mental Health Act, Chap. 28:02; the Children Act, Chap. 46:01; the Shipping Act, Chap. 50:10; the Plant Protection Act, Chap. 63:56; the Financial Intelligence Unit of Trinidad and Tobago Act, Chap. 72:01; the Income Tax Act, Chap. 75:01; the Central Bank Act, Chap. 79:02; the Financial Institutions Act, Chap. 79:09; the Companies Act, Chap. 81:01; the Securities Act, Chap. 83:02; the Caribbean Industrial Research Institute, Chap. 85:52; and the Motor Vehicles and Road Traffic (Amendment) Act, 2017 (Act No. 9 of 2017); and to repeal the Magistrates Protection Act, Chap. 6:03.

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

Clause 2 of the Bill would provide for the commencement of the proposed Act on a date to be fixed by the President by Proclamation.

Clause 3 of the Bill seeks to amend the Summary Courts Act, Chap. 4:20, by inserting a new section 159 to provide immunity to Magistrates for any acts done in the execution of their office.

Clause 4 of the Bill seeks to repeal the Magistrates Protection Act, Chap. 6:03, as a consequence of the amendment to the Summary Courts Act, Chap. 4:20, in clause 3.

Clause 5 of the Bill seeks to amend section 4 of the Oaths Act, Chap. 7:01, to remove from the general manner of administration of oaths the requirement to hold the New Testament or in the case of a Jew, the Old Testament. Consequently, section 5 of that Act would be repealed.

Clause 6 of the Bill seeks to amend the Limitation of Certain Actions Act, Chap. 7:09, by inserting a new section 23 to provide for the exclusion of the period 27th March, 2020 to 30th April, 2020 or such longer period as the Minister may, by Order, prescribe, from the computation of any limitation period under that Act.

Clause 7 of the Bill would amend the Summary Offences Act, Chap. 11:02, to increase the penalties with respect to offences relating to animal cruelty.

Clause 8 of the Bill seeks to amend section 5B(1) of the Dangerous Drugs Act, Chap 11:25, to correct cross-references in the definitions of “fixed penalty” and “fixed penalty notice”.

Clause 9 of the Bill seeks to amend sections 2 and 61(1) of the Mental Health Act, Chap. 28:02, to expand the category of persons who are duly authorised medical officers or mental health officers under the Act, by including certain persons who are employed by or at a Regional Health Authority in each category, and to include a definition of “Public Trustee” in section 2.

Clause 10 of the Bill seeks to amend section 38(1) of the Children Act, Chap. 46:01, to require a constable to warn, obtain contact information from, and notify the Children’s Authority and the parent or guardian of, a child whom he reasonably believes is in possession of, or using, a dangerous drug or similar substance.

Clause 11 of the Bill seeks to amend section 406 of the Shipping Act, Chap. 50:10, by inserting a new subsection (2), to provide for an increase penalty of up to one hundred and fifty thousand dollars and imprisonment for ten years.

Clause 12 of the Bill seeks to amend the Plant Protection Act, Chap. 63:56, to expand the power of the Minister to make Orders under that Act, generally for the purposes of that Act and in particular to empower the Minister to authorise the importation without a permit of articles which do not pose a phytosanitary risk.

Clause 13 of the Bill seeks to amend the Financial Intelligence Unit of Trinidad and Tobago Act, Chap. 72:01 —

- (a) by increasing the penalty under section 12(4) for non-compliance with an Order of the Court for the disclosure of information; and
- (b) in section 18H, by empower the FIU to issue directives to a non-regulated financial institution or a listed business which has violated, or is about to violate, the Economic Sanctions Act, Chap. 81:05, or Orders made thereunder.

Clause 14 of the Bill seeks to amend section 4 of the Income Tax Act, Chap. 75:01, by inserting new subsections (4A) and (4B) to allow for the provision of witness statements and other information by the Board or a person having an official duty or being employed in the administration of that Act.

Clause 15 of the Bill seeks to amend the Central Bank Act, Chap. 79:02, in section 56 by inserting new subsections (2A) and (2B) to allow for the provision of witness statements and other information by a director, officer or employee of the Bank.

Clause 16 of the Bill seeks to amend section 55 of the Financial Institutions Act, Chap. 79:09, by inserting new subsections (4) and (6) to allow for the provision of witness statements and other information by persons and entities.

Clause 17 of the Bill seeks to amend the Companies Act, Chap. 81:05, *inter alia*

- (a) in section 33, by inserting new subsections (1A) and (1B) to require all companies to issue share capital or pledges by way of guarantee and to deliver a notice in relation thereto to the Registrar of Companies for filing; and
- (b) in section 251, by inserting a new subsection (4) to exclude the period 27th March to 31st July, 2020 from the computation of the thirty-day period within which a company is required to register certain charges created by it.

Clause 18 of the Bill seeks to amend the Securities Act, Chap. 83:02 —

- (a) in section 14, by inserting new subsections (6) and (7) to allow for the provision of witness statements and other information by persons and entities;
- (b) in section 51(1), by inserting a new paragraph (d) which provides for the extension of the registration requirement to such other category as the Commission may prescribe;
- (c) in section 55(2)(b), to provide for the voluntarily surrendered of registration of a registered representation under section 51(1);
- (d) in section 56(6), by providing for the registration, and the renewal or reinstatement of the registration, of a branch office where a class of business for which a person is registered under section 51(1) is intended to be conducted;
- (e) in section 57(1), by inserting a new paragraph (m) to provide that the Commission may issue a warning to a registrant registered under section 51(1), (2) or (5) if the registrant was registered in error;
- (f) in section 61, by inserting a new subsection (5) to provide that a limited offering under subsection (4) shall be submitted to the Commission at least ten days prior to the offer being made to the public;
- (g) in section 155 —
 - (i) in subsection (1), by inserting a new paragraph (g) to empower the Commission to make an order in the public interest, requiring a person

who has not complied with the Act to disclose to the Commission any amounts obtained in connection with such non-compliance; and

- (ii) by inserting a new subsection (4) to define the term “interested person”;
- (h) in section 156, to increase the administrative fine which may be imposed by the Commission;
- (i) in section 156A, to provide for the consent of the Director of Public Prosecutions to be obtained before the Commission issues a Notice offering a person the opportunity to discharge liability for certain offences.

Clause 19 of the Bill seeks to amend the Caribbean Industrial Research Institute Act, Chap. 85:52, by repealing and replacing section 10 which provides for the composition of the Board of Directors of the Institute.

Clause 20 of the Bill would amend the Motor Vehicles and Road Traffic (Amendment) Act, 2017 (Act No. 9 of 2017) by inserting a new section 50 to facilitate the clearing of the backlog of outstanding fixed penalties notices after the repeal of the Motor Vehicles and Road Traffic (Enforcement and Administration) Act, Chap. 48:52. A person with an unpaid fixed penalty notice would have a period of six months to pay fifty percent of the fixed penalty in order to be discharged from liability, so long as the Court does not hear and determine his matter before payment is made. The Minister would, however, have the power to vary the percentage of the fixed penalty to be paid and to extend the six-month period by Order subject to negative resolution of Parliament.

THE MISCELLANEOUS AMENDMENTS BILL, 2020

ARRANGEMENT OF CLAUSES

Clause

- 1.** Short title
- 2.** Commencement
- 3.** Chap. 4:20 amended
- 4.** Chap. 6:03 repealed
- 5.** Chap. 7:01 amended
- 6.** Chap. 7:09 amended
- 7.** Chap. 11:02 amended
- 8.** Chap. 11:25 amended
- 9.** Chap. 28:02 amended
- 10.** Chap. 46:01 amended
- 11.** Chap. 50:10 amended
- 12.** Chap. 63:56 amended
- 13.** Chap. 72:01 amended
- 14.** Chap. 75:01 amended
- 15.** Chap. 79:02 amended
- 16.** Chap. 79:09 amended
- 17.** Chap. 81:01 amended
- 18.** Chap. 83:02 amended
- 19.** Chap. 85:52 amended
- 20.** Act No. 9 of 2017 amended

ABILL

AN ACT to amend the Summary Courts Act, Chap. 4:20; the Oaths Act, Chap. 7:01; the Limitation of Certain Actions Act, Chap. 7:09; the Summary Offences Act, Chap. 11:02; the Dangerous Drugs Act, Chap. 11:25; the Mental Health Act, Chap. 28:02; the Children Act, Chap. 46:01; the Shipping Act, Chap. 50:10; the Plant Protection Act, Chap. 63:56; the Financial Intelligence Unit of Trinidad and Tobago Act, Chap. 72:01; the Income Tax Act, Chap. 75:01; the Central Bank Act, Chap. 79:02; the Financial Institutions Act, Chap. 79:09; the Companies Act, Chap 81:01; the Securities Act, Chap. 83:02; the Caribbean Industrial Research Institute, Chap. 85:52; and the Motor Vehicles and Road Traffic (Amendment) Act, 2017 (Act No. 9 of 2017); and to repeal the Magistrates Protection Act, Chap. 6:03.

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

Short title **1.** This Act may be cited as the Miscellaneous Amendments Act, 2020.

Commence-
ment **2.** This Act comes into force on such date as is fixed by the President by Proclamation.

Chap. 4:20
amended **3.** The Summary Courts Act is amended by inserting after section 158, the following section:

“Immunity of 159. No action shall be brought against a
Magistrates Magistrate for any act done by him in the execution of
his office.”.

Chap. 6:03
repealed **4.** The Magistrates Protection Act is repealed.

Chap. 7:01
amended **5.** The Oaths Act is amended —

(a) in section 4(1) —

(i) by deleting the words “hold the New Testament or, in the case of a Jew, the Old Testament, in his uplifted hand, and shall” and substituting the words “with uplifted hand”; and

(ii) by deleting the words “I swear by Almighty God” and substituting the words “I, *A.B.*, solemnly swear”;

(b) in section 4(2), by deleting from the word “However” to the end; and

(c) by repealing section 5.

Chap. 7:09
amended **6.** The Limitation of Certain Actions Act is amended by inserting after section 22, the following section:

“Exclusion of specified period in computation of limitation period”

23. Notwithstanding the provisions of this Act, the period 27th March, 2020 to 30th April, 2020 or such longer period as the Attorney General may, by Order, prescribe, shall not be included in the computation of a period of limitation under this Act.”.

Chap. 11:02
amended

7. The Summary Offences Act is amended –

- (a) in section 79(1), by deleting the words “four hundred dollars or to imprisonment for two months” and substituting the words “one hundred thousand dollars and to imprisonment for a term of one year”;
- (b) in section 80, by deleting the words “four hundred dollars or to imprisonment for two months” and substituting the words “one hundred thousand dollars and to imprisonment for a term of one year”; and
- (c) in section 83(1), by deleting the words “four hundred dollars or to imprisonment for two months” and substituting the words “one hundred thousand dollars and to imprisonment for a term of one year”.

Chap. 11:25
amended

8. The Dangerous Drugs Act is amended in section 5B(1) –

- (a) in the definition of fixed penalty”, by deleting the words “subsection (2)” and substituting the words “subsection (16)”; and
- (b) in the definition of “fixed penalty notice”, by deleting the words “subsection (3)” and substituting the words “subsection (2)”.

Chap. 28:02
amended

9. The Mental Health Act is amended in –

- (a) section 2(1) –
 - (i) in the definition of “duly authorised medical officer”, by inserting after the words “other medical officer”, the words “employed by a Regional Health Authority under the Regional Health Authorities Act or”;
 - (ii) in the definition of “public place”, by deleting the full stop and substituting the words “; and”; and
 - (iii) by inserting after the definition of “public place”, the following definition:

““Public Trustee” means the person holding or acting in the post of Chief State Solicitor.”; and

Chap. 29:05

- (b) in section 61(1) –

- (i) in paragraph (e), by deleting the words “; and” and substituting a semi-colon;
- (ii) in paragraph (d), by deleting the full stop and substituting the words “; and”; and
- (iii) by inserting after paragraph (d), the following paragraph:

“(e) any of the persons listed in paragraphs (a) to (d) who are employed at a Regional Health Authority.”.

Chap. 46:01
amended

10. The Children Act is amended in section 38(1) –

- (a) in paragraph (b), by deleting the word “or”;
- (b) in paragraph (c), by deleting the comma and substituting the words “; or”; and
- (c) by inserting after paragraph (c), the following paragraph:

“(d) in possession of, or using, a dangerous drug or a substance having an effect similar to that of a dangerous drug,”.

Chap. 50:10
amended

11. The Shipping Act is amended –

- (a) by renumbering section 406 as section 406(1); and
- (b) by inserting after section 406(1) as renumbered, the following subsection:

“(2) Notwithstanding section 63(1) of the Interpretation Act, regulations made under this Act may prescribe a penalty not exceeding a fine of one hundred and fifty thousand dollars and imprisonment for ten years.”.

Chap. 3:01

Chap. 63:56
amended

12. The Plant Protection Act is amended in section 4A –

- (a) by inserting after the words “necessary or expedient for”, the words “the purposes of this Act, including”;
- (b) in paragraph (i), by deleting the word “and”;
- (c) by renumbering paragraph (j) as paragraph (k); and
- (d) by inserting after paragraph (i), the following paragraph:

“(j) exempt any article from the application of section 3 where the Minister has determined that the article does not pose a phytosanitary risk; and”.

Chap. 72:01
amended

13. The Financial Intelligence Unit of Trinidad and Tobago Act is amended –

- (a) in section 12(4), by deleting all the words after the word “liable” and substituting the following words:

“on –

- (a) summary conviction of five hundred thousand dollars; and
(b) conviction on indictment to a fine of one million dollars.”;

Chap. 81:05

- (b) in section 18H(1), by inserting after the words “Tobago Regulations,” the words “the Economic Sanctions Act or Orders made thereunder.”.

Chap. 75:01
amended

14. The Income Tax Act is amended in section 4, by inserting after subsection (4), the following subsections:

“(4A) Subsections (1) and (2) do not apply to –

- (a) information which at the time of disclosure is or has already been made available to the public from other sources;
- (b) information in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it; or
- (c) the provision of a witness statement to a police officer of the rank of Superintendent or above for the purposes of any criminal investigation or criminal proceedings, where the witness statement –
- (i) relates to information disclosed under compulsion of law, this Act or any other written law; and
- (ii) is requested, in writing, by that police officer with the prior written consent of the Director of Public Prosecutions.

(4B) Notwithstanding any law to the contrary, it shall not be a contravention of any law, or a breach of contract or any duty of confidentiality, for a person or entity to disclose information pursuant to this section by way of a witness statement referred to in subsection (4A)(c).

(4C) No action or other proceeding shall be brought against the Board or a person having an official duty or being employed in the administration of this Act with respect to the disclosure by it or him, in good faith, of any information pursuant to this section.”.

Chap. 79:02
amended

15. The Central Bank Act is amended in section 56, by inserting after subsection (2), the following subsections:

“(2A) Subsections (1) and (2) do not apply to –

- (a) information which at the time of disclosure is or has already been made available to the public from other sources;
- (b) information in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it; or
- (c) the provision of a witness statement to a police officer of the rank of Superintendent or above for the purposes of any criminal investigation or criminal proceedings, where the witness statement –
 - (i) relates to information disclosed under compulsion of law, this Act or any other written law; and
 - (ii) is requested, in writing, by that police officer with the prior written consent of the Director of Public Prosecutions.

(2B) Notwithstanding any law to the contrary, it shall not be a contravention of any law, or a breach of contract or any duty of confidentiality, for the Bank or a director, officer or employee of the Bank to disclose information pursuant to this section by way of a witness statement referred to in subsection (2A)(c).

(2C) No action or other proceeding shall be brought against the Bank or a director, officer or employee of the Bank with respect to the disclosure by it or him, in good faith, of any information pursuant to this section”.

Chap. 79:09
amended

16. The Financial Institutions Act is amended in section 55 –

- (a) by repealing subsection (4) and substituting the following subsection:

“(4) This section does not apply to –

- (a) information which at the time of disclosure is or has already been made available to the public from other sources;
- (b) information in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it; or
- (c) the provision of a witness statement to a police officer of the rank of Superintendent or above for the purposes of any criminal investigation or criminal proceedings, where the witness statement –
 - (i) relates to information disclosed under compulsion of law, this Act or any other written law; and
 - (ii) is requested, in writing, by that police officer with the prior written consent of the Director of Public Prosecutions.”;

(b) by inserting after subsection (5), the following subsections:

“(6) Notwithstanding any law to the contrary, it shall not be a contravention of any law, or a breach of contract or any duty of confidentiality, for a person or entity to disclose information pursuant to this section by way of a witness statement referred to in subsection (4)(c).

(7) No action or other proceeding shall be brought against a person or entity with respect to the disclosure by him or it, in good faith, of any information pursuant to this section.”.

Chap. 81:01
amended

17. The Companies Act is amended –

- (a) in section 33 –
 - (i) by inserting after subsection (1), the following subsections:

“(1A) Notwithstanding subsection (1) –

- (a) within fourteen days of the incorporation or registration of a company for profit, the company shall issue share capital or pledges by way of guarantee in respect of the company for such consideration or in such amount, as the case may be, as the

directors shall determine; or

- (b) all companies which are incorporated or registered immediately before the coming into force of this subsection and have not, on or before the coming into force of this subsection, issued any share capital or pledges by way of guarantee in respect of the company, shall within six months of the coming into force of this subsection or such other period as the Minister may by Order prescribe, issue share capital or pledges by way of guarantee in respect of the company for such consideration or in such amount, as the case may be, as the directors shall determine.

(1B) A company shall, within fourteen days of issuing share capital or pledges under subsection (1A), deliver to the Registrar a notice in the prescribed form and the Registrar shall file the notice.”.

- (ii) in subsection (3), by inserting after the word “subsection”, the words “(1A) or”;

- (b) in section 251, by inserting after subsection (3), the following subsection:

“(4) Notwithstanding subsection (1), the period 27th March, 2020 to 31st July, 2020 or such longer period as the Minister may, by Order, prescribe, shall not be included in the computation of a period specified in subsection (1).”; and

- (c) in section 516A, by repealing subsection (1) and substituting the following subsection:

“(1) Notwithstanding any written law to the contrary, there shall be a waiver of all penalties due and payable under sections 156(5) and 516 on the failure to deliver to, or to file with, the Registrar any document required to be delivered or filed under this Act, where the documents are delivered to, or filed with, the Registrar prior to or during the period 27th March, 2020 to 31st July, 2020 or such longer period as the Minister may, by Order, specify.”.

Chap. 83:02
amended

18. The Securities Act is amended –

- (a) in section 14, by inserting after subsection (5), the following subsections:

“(6) This section does not apply to –

- (a) information which at the time of disclosure is or has already been made available to the public from other sources;
- (b) information in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it; or
- (c) the provision of a witness statement to a police officer of the rank of Superintendent or above for the purposes of any criminal investigation or criminal proceedings, where the witness statement –
 - (i) relates to information disclosed under compulsion of law, this Act or any other written law; and
 - (ii) is requested, in writing, by that police officer with the prior written consent of the Director of Public Prosecutions.

(7) Notwithstanding any law to the contrary, it shall not be a contravention of any law, or a breach of contract or any duty of confidentiality, for a person or entity to disclose information pursuant to this section by way of a witness statement referred to in subsection (6)(c).

(8) No action or other proceeding shall be brought against a person or entity with respect to the disclosure by him or it, in good faith, of any information pursuant to this section.”;

(b) in section 51(1) –

- (i) in paragraph (a), by inserting after the word “dealer”, the words “or sub-category of a broker-dealer”;
- (ii) in paragraph (b), by deleting the words “; or” and substituting a semi-colon;
- (iii) in paragraph (c), by deleting the comma and substituting the words “; or”;
- (iv) by inserting after paragraph (c), the following paragraph:

“(d) such other category as the Commission may

prescribe unless the person is registered, deemed to be registered as such, or otherwise exempted in accordance with this Act, and except for persons deemed registered, the person has received written notice of the registration from the Commission.”;

- (c) in section 55(2)(b), by inserting after the word “terminated”, the words “or voluntarily surrendered”;
- (d) in section 56(6), by deleting all the words after the words “conducted” and substituting the following:

“shall –

- (a) apply to the Commission for registration of the branch office in the prescribed form and shall pay the prescribed fee and the Commission may grant such application subject to such conditions as it considers appropriate; and
- (b) where application for registration is granted in accordance with paragraph (a), such registration shall be renewed annually.”;

- (e) in section 57(1) –

- (i) in paragraph (k), by deleting the words “; or” and substituting a semi-colon;
- (ii) in paragraph (l), by deleting the full stop and substituting the words “; or”; and
- (iii) by inserting after paragraph (l), the following paragraph:

“(m) the registrant was registered in error.”;

- (f) in section 61, by inserting after subsection (4), the following subsection:

“(5) A limited offering notification under subsection (4) shall be submitted to the Commission at least ten days prior to the offer being made to the public.”;

- (g) in section 155 –

- (i) in subsection (1) –
 - (A) in paragraph (e), by deleting the words “;or” and substituting a semi-colon;

(B) in paragraph (f), by deleting the full stop and substituting the words “; or”;

(C) by inserting after paragraph (f), the following paragraph:

“(g) if a person has not complied with this Act, an order requiring the person to disgorge to the Commission any amounts obtained as a result of non-compliance.”;

(ii) by inserting after subsection (3), the following subsection:

“(4) For the purpose of this section, “interested person” means a person who has an interest in a security in an account of a participant in a clearing agency.”;

(h) in section 156 –

(i) in subsection (1), by deleting the words “five hundred thousand” and substituting the words “five million”;

(ii) in subsection (3), by deleting the words “the fine is paid.” and substituting the words “the document is filed.”;

(i) in section 156A (1), by inserting after the word “may”, the words “with the consent of the Director of Public Prosecutions”.

Chap. 85:52
amended

19. The Caribbean Industrial Research Institute Act is amended by repealing section 10 and substituting the following section:

“Board of Management 10.(1) The Caribbean Industrial Research Institute shall be managed by a Board of Directors which shall comprise –

(a) a representative of the Government of Trinidad and Tobago nominated by the Minister who shall be the Chairman;

(b) a representative appointed by the President;

(c) a representative of the Ministry responsible for trade;

(d) three representatives of industrial and commercial organisations;

- (e) four representatives of the University of the West Indies;
- (f) a representative of the University of Trinidad and Tobago;
- (g) a representative of the National Institute of Higher Education, Research, Science and Technology;
- (h) the Director of the Institute who shall not have any voting rights.

(2) The Board shall be appointed by the President.

(3) The members of the Board may —

- (a) hold office for the period of three years from the date of their appointment; and
- (b) be eligible for reappointment on expiry of their term of office.”.

Act No. 9 of
2017
amended

20. The Motor Vehicles and Road Traffic (Amendment) Act, 2017 is amended by inserting after section 49, the following section:

“Discharge
of liability
in relation
to fixed
penalties

Chap. 48:52

50.(1) In this section –

“former Act” means the Motor Vehicles and Road Traffic (Enforcement and Administration) Act repealed by section 48;

“fixed penalty” means a penalty prescribed under section 6 of the former Act;

“fixed penalty notice” means a notice issued under section 3 of the Act.

(2) Where, prior to the repeal of the former Act, a person was served with a fixed penalty notice and has not paid the fixed penalty in accordance with section 5(3) of the former Act, that person may at any time before the Court determines the matter, pay fifty percent of the fixed penalty and that person shall then not be liable to be convicted of the offence in respect of which the fixed penalty notice was given.

