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Third Session Eighth Parliament Republic of
Trinidad and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 19 of 2005

[L.S.]

AN ACT to amend the Evidence Act, Chap. 7:02; the Larceny Act, Chap. 11:12; the Summary Courts Act, Chap. 4:20; the Bail Act, 1994; the Negotiable Instruments (Dishonoured Cheques) Act, 1998; the Forgery Act, Chap. 11:13 and the Electronic Transfer of Funds Crime Act, 2000.

[Assented to 29th July, 2005]

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

1. This Act may be cited as the Administration of Short title Justice (Miscellaneous Provisions) Act, 2005.

PART I

EVIDENCE IN CRIMINAL PROCEEDINGS

Interpretation
Chap. 7:02

2. In this Part, “the Act” means the Evidence Act.

3. Section 19 of the Act is amended—

(a) by inserting after subsection (2A), the following subsections:

“ (2B) Where any substance or thing is required to be submitted to a Government expert for examination, analysis or report, that substance or thing can be lawfully received by any person duly authorized by the Director of the Trinidad and Tobago Forensic Science Centre.

(2C) Where a duly authorized person, mentioned in subsection (2B), receives any substance or thing he shall maintain a record stating the date on and time at which and the name and signature of the person from whom he received the substance or thing, and the date on and time at which it was taken and the name and signature of the Government expert who takes it from him for examination, analysis or report.

(2D) Subsections (2B) and (2C) do not in any manner affect the admissibility into evidence of a document referred to in subsection (2A).”; and

(b) in subsection (4), by—

(i) deleting the word “and” occurring at the end of paragraph (g);

- (ii) renumbering paragraph (*h*) as (*i*);
and
- (iii) inserting after paragraph (*g*), the
following new paragraph:
“(*h*) a Fingerprint Technician
from the Criminal Records
Office; and”.

PART II

HOUSE BREAKING OFFENCES

4. In this Part, “the Act” means the Larceny Act.

Interpretation
Chap. 11:12

5. Section 28 of the Act is amended by deleting the words “is liable upon summary conviction to imprisonment for ten years” and substituting the words “is liable to imprisonment for ten years”.

Section 28 amended

6. Section 29 of the Act is amended by deleting the words “upon summary conviction”.

Section 29 amended

7. Section 30 of the Act is amended by deleting paragraph (*d*) and substituting the following new paragraph:

Section 30 amended

“(d) in any building with intent to commit any
arrestable offence therein,
is liable to imprisonment for ten years.”.

PART IIA

OFFENCES TRIABLE EITHER WAY

8. The Second Schedule to the Summary Courts Act is amended by inserting in item 6 after the word “27”, the words “28, 29 and 30”.

Second Schedule
amended
Chap. 4:20

PART III

BAIL

9. In this Part, “the Act” means the Bail Act, 1994.

Interpretation
Act No. 18 of 1994

Section 6 amended

10. Section 6 of the Act is amended—

- (a) in subsection (2), by deleting the words “or convicted”; and
- (b) in subsection (3) by deleting the word “shall” and substituting the word “may”.

Section 6A inserted

11. The Act is amended by inserting after section 6, the following new section:

“Appeals

6A. (1) Where a person—

- (a) is convicted by a Magistrates’ Court for an offence punishable with imprisonment;
- (b) appeals; and
- (c) is refused or granted bail by the High Court,

that person or the prosecution, as the case may be, may appeal the decision of the High Court to the Court of Appeal.

(2) Where an appellant seeks bail under subsection (1), the Court of Appeal may—

- (a) grant bail; or
- (b) deny bail if the Court is satisfied that there are no special circumstances to justify the granting of bail,

to the appellant.

(3) Where the prosecution appeals a decision of the High Court to grant bail under subsection (1), the Court of Appeal may—

- (a) dismiss the appeal and uphold the decision of the High Court;
- (b) allow the appeal, revoke the grant of bail and order that the person be arrested; or
- (c) vary the conditions of the bail.”.

11A. Section 11(1) of the Act is amended by deleting Section 11 amended the word “police” and substituting the word “prosecution”.

12. The Act is amended by inserting after section 11, Section 11A inserted the following new section—

“Right of appeal 11A.(1) Where an application is made to the High Court under section 11(1) and the High Court refuses or grants the application or varies the conditions, the accused person or the prosecution, as the case may be, may appeal that decision to the Court of Appeal.

(2) Where the Court of Appeal hears an appeal under subsection (1), the Court of Appeal may make any order as it thinks just.

(3) No appeal shall lie from an order of the Court of Appeal made under subsection (2).”.

PART IV

DISHONoured CHEQUES

13. In this Part, “the Act” means the Negotiable Interpretation Act No. 9 of 1998 Instruments (Dishonoured Cheques) Act, 1998.

14. Section 2 of the Act is amended by inserting after Section 2 amended subsection (5) the following new subsection:

“(6) Where a drawer knowingly obtains or causes another person to obtain property or services by use of a dishonoured cheque and that cheque is lost, stolen, destroyed or cannot be found for any reason and he issues or utters a second cheque in relation to the same transaction and the second cheque is also dishonoured, the second cheque is deemed to be the dishonoured cheque for the purpose of this Act.”.

Section 3
amended

15. Section 3 of the Act is amended—

- (a) in subsection (1), by inserting after the words “by use of” the words “or in contemplation of a”;
- (b) in subsection (2)(a)(i), by inserting after the words “he obtains” the words “or knowingly causes another person to obtain”;
- (c) in subsection (2)(c), by inserting after the words “without the” the word “written”; and
- (d) by inserting after subsection (2), the following new subsection:

“ (3) For the avoidance of doubt, an offence under this Act is committed at the time when a cheque is presented for payment and it is dishonoured.”.

Section 4
amended

16. Section 4 of the Act is amended—

- (a) in subsection (1)(b)(i), by inserting after the words “of its utterance” the words “or any other time before it is presented for payment”;
- (b) in subsection (2), by—
 - (i) deleting the word “may” and substituting the word “shall”; and
 - (ii) inserting after the words “cheque with a” the word “certified”;
- (c) in subsection (3)—
 - (i) in paragraph (a) by inserting after the words “of the” first occurring the words “certified copy of the”; and

(ii) in paragraph (b), by inserting after the words “with a” the word “certified”; and

(d) by inserting after subsection (4), the following new subsections:

“ (5) A copy of every dishonoured cheque together with a certified copy of the notice or protest issued by the drawee shall be retained by the drawee for one year.

(6) Without prejudice to subsection (3), where the drawee fails to issue a notice or protest, the payee may, by written notice in any form, notify the drawer that the cheque has been dishonoured and enclose a copy of the dishonoured cheque, and the written notice shall constitute *prima facie* evidence that the cheque is a dishonoured cheque.

(7) Without prejudice to subsection (3) or (6), where a person makes a written confession admitting that he committed an offence under this Act, subsection (3) or (6) shall not apply.”.

17. The Act is amended by inserting after section 7, Section 8 inserted
the following new section:

“Limitation of
time for
prosecution
in summary
cases

8. Notwithstanding any law to the contrary, an offence committed under this Act and charged summarily may be prosecuted at any time within one year after the commission of the offence.”.

PART V

FORGERY

Section 5 amended
Chap. 11:13

18. Section 5 of the Forgery Act is amended—

(a) in subsection (3)—

- (i) by deleting the full stop at the end of the paragraph (m) and substituting a semi colon;
- (ii) by inserting after paragraph (m), the following new paragraphs:

“ (n) a driving permit, provisional permit or learner’s permit issued under the Motor Vehicles and Road Traffic Act;

Chap. 48:50

(o) a national identification card issued under the Representstion of the People Act.”;

Chap. 2:01

(b) by inserting after subsection (3), the following new subsection:

“ (4) A person who has in his custody or possession a forged document mentioned in—

- (a) subsection (2), commits forgery of that document and is liable to imprisonment for fourteen years;
- (b) subsection (3), commits forgery of that document and is liable to imprisonment for seven years.”.

PART VI

ELECTRONIC TRANSFERS

19. In this Part, “the Act” means the Electronic Transfer of Funds Crime Act, 2000. Interpretation Act No. 87 of 2000

20. Section 2 of the Act is amended as follows: Section 2 amended

- (a) in the definition of “cardholder” after the words “smart card” insert the words “or whose name is not on such a card but”; and
- (b) in the definition of “creditor”—
 - (i) after the words “to supply” insert the words “money”; and
 - (ii) after the words “of such” insert the word “money”.

21. Section 4(1) of the Act is amended— Section 4 amended

- (a) in paragraph (a), by deleting the word “or”;
- (b) in paragraph (b), by deleting the word “,” and inserting the words “; or”; and
- (c) by inserting after paragraph (b), the following new paragraph:
 - “(c) a person authorized in writing by the cardholder to use the card.”.

22. The Act is amended by inserting after section 4, Section 4A inserted the following new section:

“Obtaining control of card with intent to use it

4A. A person who receives or is given possession, custody or control of a card—

- (a) by or with the knowledge or consent of the cardholder;
- (b) by a person holding or having possession of the card with the consent of the cardholder; or

(c) by a person authorized in writing by the cardholder to use the card, and who unlawfully retains possession, custody or control of the card with intent to use it and uses it to obtain money, goods, services or anything else of value commits an offence and is liable on—

(i) summary conviction to a fine of fifty thousand dollars and to imprisonment for five years; or

(ii) conviction on indictment to a fine of eighty thousand dollars and to imprisonment for seven years.”.

Section 11
amended

23. The Act is amended by—

(a) renumbering section 11 as section 11(1); and

(b) inserting after the renumbered subsection (1) the following new subsection:

“ (2) A person who by any means forces a cardholder or a person holding or having possession of the card with the consent of the cardholder or any person authorized in writing by the cardholder to use the card—

(a) to obtain money, goods, services or anything else of value for him; or

(b) to disclose his password or card number to him or another person for the purpose of obtaining money, goods, services or anything else of value,

commits an offence and is liable on—

- (i) summary conviction to a fine of fifty thousand dollars and to imprisonment for five years; or
- (ii) conviction on indictment to a fine of eighty thousand dollars and to imprisonment for seven years.”.

24. The Act is amended—

Section 12
amended

- (a) in section 12(4), by inserting after the words “of a card” the words “or a card”; and
- (b) by inserting after subsection (4), the following new subsection:

“ (5) A person authorized by a creditor to furnish goods, services or anything else of value or an agent or employee of such an authorized person who intentionally remits to the creditor a card transaction record of a sale that was not made by a cardholder or a person holding or having possession of the card with the consent of the cardholder or a person authorized in writing by the cardholder to use the card under subsection (4), commits an offence and is liable on summary conviction to a fine of thirty thousand dollars and to imprisonment for two years.”.

25. Section 15(1) of the Act is amended by inserting after the words “purchases any” the words “money,”.

Section 15
amended

Section 21
inserted

26. The Act is amended by inserting after section 20, the following new section:

“Limitation of
time for
prosecution
in Summary
Cases 21. Notwithstanding any law to the
contrary, an offence committed under this
Act and charged summarily may be
prosecuted at any time within one year
after the commission of the offence.”.

Passed in the House of Representatives this 8th day of
June, 2005.

J. SAMPSON-JACENT
Clerk of the House

Passed in the Senate this 12th day of June, 2005.

N. JAGGASSAR
Acting Clerk of the Senate

Senate amendments agreed to by the House of
Representatives this 15th day of July, 2005.

J. SAMPSON-JACENT
Clerk of the House