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No. 30 of 2004

Third Session Eighth Parliament Republic of
Trinidad and Tobago

HOUSE OF REPRESENTATIVES

BILL

AN ACT to amend the Summary Courts Act, Chap. 4:20

THE SUMMARY COURTS (AMENDMENT) (NO. 2)
BILL, 2004

Explanatory Note

(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
by inserting—

- (a) a new section 63A to provide for the admissibility of a written statement by a witness which contains matters that are not in dispute, after there has been no objection by any party, to the statement being tendered as evidence;
- (b) a new section 63B to provide the procedure for the admissibility of a written statement into evidence; and
- (c) a new section 63C to provide that a formal admission may be proof of a fact that is not in dispute.

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[, 2004]

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

1. This Act may be cited as the Summary Courts Short title
(Amendment) (No. 2) Act, 2004.

Chap. 4:20
amended

2. The Summary Courts Act is amended by inserting after section 63, the following sections:

<sup>“Admissibility
of written
statements</sup> 63A. (1) Notwithstanding section 63(4) and (5), in a hearing, a written statement by a witness shall, if the conditions mentioned in subsection (3) are satisfied, be admissible as evidence to the like extent as oral evidence, to the like effect by that witness.

Chap. 46:01 (2) Where a child is a witness in a hearing, the Magistrate shall first comply with section 19 of the Children Act and then this section shall be applied to any written statement made by such a witness.

(3) the conditions referred to in subsection (1) are that—

- (a) the statement purports to be signed by the witness who made it;
- (b) the statement was sworn before a Clerk of the Peace or Justice of the Peace and shall be authenticated by a certificate signed by him;
- (c) the 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;
- (d) before the statement is tendered in evidence a copy of the statement is given, by or on behalf of the party

proposing to tender it, to each of the other parties to the proceedings; and

- (e) none of the other parties, before the statement is tendered in evidence, at the hearing, objects to the statement being so tendered under this section.

(4) The following provisions shall also have effect in relation to any written statement admitted in evidence under this section, that is to say:

- (a) where the statement is made by a witness under eighteen years of age, it shall state his age and that a named adult of his choice was present with him when it was made;
- (b) where the statement is written on behalf of a witness it shall be signed by both the witness and the person who wrote it and dated;
- (c) where the statement is written on behalf of a witness who cannot read, the person who wrote it shall read it to him before he signs it and it shall be accompanied by a declaration by the person who wrote 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 written on behalf of a witness who cannot write, the person who wrote 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 wrote 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 copy of the statement given to any other party to the enquiry under subsection 3(d) shall be accompanied by a copy of that document or by such information as may be necessary in order to enable the party to whom it is given to inspect that document or a copy of it.

(5) Where any party objects to the admissibility of a written statement under subsection (3)(e), the Magistrate shall make a ruling on the objection and where he overrules the objection, the statement shall be admitted in evidence in accordance with subsection (1).

(6) So much of any statement as is admitted in evidence by virtue of this section shall, unless the Magistrate otherwise directs, be read aloud at the hearing, and where the Magistrate so directs an account shall be given orally of so much of any statement as is not read aloud.

(7) A document or an object referred to as an exhibit and identified in a written statement tendered in evidence under this section shall be treated as if it had been produced as an exhibit and identified in court by the maker of the statement.

Procedure

63B. (1) A written statement under section 63A shall be filed with the Clerk of the Peace of the Magistrates' Court by either party and a filed copy shall be served on the other party to the proceedings as soon as practicable thereafter.

(2) A written statement filed under subsection (1) by either party to the proceedings, shall be tendered by the party at the hearing and may be admitted into evidence by the Magistrate under section 63(4), and where a statement is so admitted it shall be marked by the Magistrate as a court exhibit and kept together with all the other written statements and any other depositions.

(3) Where a statement is to be admitted in evidence under section 63(4) and the Magistrate is of the opinion that a part of it is inadmissible there shall be written against that part the words "treated as inadmissible" together with the signature of the Magistrate.

(4) Where it is not possible to write on the statement, the words set out in subsection (3) shall instead be written on a label or other mark of identification which clearly identifies the part of the statement to which the words relate and contains the signature of the Magistrate in accordance with that subsection and which shall be attached to the statement.

(5) Where a written statement, admitted in evidence under section 63(4), refers to any document or object as an exhibit, that document or object shall wherever possible, be identified by means of a label or other mark of identification signed by the maker of the statement and before the Magistrate treats any document or object referred to as an exhibit in such

a statement, as an exhibit produced and identified in court by the maker of the statement, the Magistrate shall be satisfied that the document or object is sufficiently described in the statement for it to be identified.

(6) Notwithstanding this section, an accused person is entitled to submit to the Magistrate, that any part of a statement is inadmissible in evidence.

Proof by
formal
admission

63C. (1) Subject to the provisions of this section, any fact of which oral evidence may be given in any criminal proceedings may be admitted for the purpose of those proceedings by the counsel for the prosecution or the accused person or his counsel, and the admission by any party of any such fact under this section shall as against that party be conclusive evidence in those proceedings of the fact admitted.

(2) An admission under this section—

- (a) may be made before or at the proceedings;
- (b) where made otherwise than in court, shall be in writing;
- (c) where made in writing by an individual, shall purport to be signed by the person making it and, if so made by a body corporate, shall purport to be signed by a director or manager, or the secretary or clerk, or some other similar officer of the body corporate;
- (d) where made on behalf of the defendant who is an individual, shall be made by his counsel; and
- (e) where made at any stage before the trial by a defendant who is an individual, shall be approved by

his counsel, whether at the time it was made or subsequently, before or at the proceedings in question.

(3) An admission under this section for the purpose of proceedings relating to any matter shall be treated as an admission for the purpose of any subsequent criminal proceedings relating to that matter.

(4) An admission under this section may, with the leave of the court, be withdrawn in the proceedings for the purpose of which it is made or any subsequent criminal proceedings relating to the same matter.”.

Passed in the House of Representatives this day
of , 2004.

Clerk of the House

I confirm the above.

Speaker

Passed in the Senate this day of , 2004.

Acting Clerk of the Senate

I confirm the above.

President of the Senate

No. 30 of 2004

THIRD SESSION
EIGHTH PARLIAMENT
REPUBLIC OF
TRINIDAD AND TOBAGO

BILL

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Act, Chap. 4:20

Received and read the

First time.....

Second time.....

Third time.....
