

## **A BILL**

An Act to abolish preliminary enquiries and to provide for  
the pre-trial procedure in respect of indictable offences  
and for ancillary matters

ENACTED by the Parliament of Trinidad and Tobago as follows:

Enactment

### **PART I PRELIMINARY**

1. This Act may be cited as the Indictable Offences (Pre-Trial Procedure) Act, 2018.

Short title

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

Commencement

3. In this Act, unless the context requires otherwise-

Interpretation

“arrest warrant” means a warrant issued under section 8(1),(4) or (5);

“complaint” means a complaint made in accordance with section 7;

“Court” means the High Court or a Judge or Master of the High Court;

“documentary exhibit” includes a statement, extract, photograph, computer printout or other document;

“either-way offence” means –

(a) an offence which is triable on indictment or summarily; or

(b) an offence specified in the Second Schedule to the Summary Courts Act;

Chap. 4:20

“indictable offence” means an offence which is triable only on indictment or an either-way offence;

Chap. 6:54

“interpreter” means a person who holds a valid licence, or who is appointed, under the Interpreters Act;

“Justice” means a Justice of the Peace;

“Keeper” has the same meaning assigned to it by section 2 of the Summary Courts Act;

Chap. 13:01

“prison” means any place referred to in section 3 of the Prisons Act or declared or appointed a prison under that Act;

“Registrar” means the Registrar of the Supreme Court;

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

“search warrant” means a warrant issued under section 6(1); and

“summons” means a summons issued in accordance with this Act.

Concurrent  
jurisdiction of  
Justices

4. (1) For the purposes of this Act, Justices shall have and exercise concurrent jurisdiction with Magistrates to—

- (a) issue search warrants;
- (b) receive complaints;
- (c) issue arrest warrants or summonses and other processes of court;
- (d) grant bail in accordance with the Bail Act;
- (e) remand an accused person in custody; and
- (f) administer oaths.

Chap. 4:60

(2) Where a Magistrate or Justice issues a warrant referred to in subsection (1)(a) or (c), he shall endorse the warrant with a direction that the thing seized, or the person arrested as the case maybe, be brought before a Magistrate.

Compelling  
appearance of  
accused person

5. Any Magistrate may issue a summons or a warrant for the arrest of a person, in order to compel the appearance before a Magistrate of any person accused of having committed in any place, whether within or outside of Trinidad and Tobago, any indictable offence triable according to the law for the time being in force in Trinidad and Tobago.

## PART II

### SEARCH WARRANTS, SUMMONSES AND ARREST WARRANTS

Power to issue a  
search warrant

6. (1) A Magistrate who is satisfied by proof on oath in writing that there is reasonable ground for suspecting that there is in any building, ship, vessel, vehicle, box, receptacle, **computer**, **electronic device** or place, anything-

- (a) upon or in respect of which any indictable offence has been or is suspected to have been committed;
- (b) which there is reasonable ground for suspecting will afford evidence as to the commission of any such offence; or
- (c) 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 the building, ship, vessel, vehicle, box,

receptacle, **computer, electronic device** or place for any such thing, and to seize and carry it before the Magistrate issuing the warrant or some other Magistrate, to be dealt with by him according to law.

(2) A search warrant may be issued and executed at any time and on any day including a Saturday, Sunday or public holiday.

(3) Anything seized or detained in the execution of a search warrant whether specified in the warrant or not, shall be brought before any Magistrate, together with a report in the form set out as Form A in Schedule 1, and a copy of the report shall be served on the owner or occupier of the place searched.

Schedule 1

(4) When a thing is seized and brought before any Magistrate, the Magistrate may detain it or cause it to be detained, taking reasonable care that it is preserved for the purpose of evidence on the trial.

(5) A Magistrate under subsection (4), in taking reasonable care to preserve a thing, shall, where appropriate, cause the thing to be detained in the custody of the police or such other appropriate body, as the Magistrate may order.

(6) Except as provided for under this Act or any other law, where a thing seized under this section is no longer required for the purpose of evidence in any criminal proceedings, the Magistrate shall direct the thing seized to be restored to the person from whom it was taken unless the Magistrate is authorized or required by law to dispose of it otherwise.

(7) Where, under a warrant, there is brought before any Magistrate any forged bank note, bank note paper, instrument, or other thing, the possession of which, in the absence of lawful excuse, is an indictable offence according to any written law for the time being in force, if an indictment is not preferred, the Magistrate may order the thing to be destroyed.



(8) Where the thing to be searched for is any 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 that written law, or, in default of such direction, as the Commissioner of Police may order.

(9) Where a constable searches any place in execution of a search warrant, he shall provide the owner or occupier of the place with a copy of the warrant and he may seize and retain any thing, other than items subject to legal privilege, which is likely to be of substantial value, whether by itself or together with other material, to the investigation for the purposes of which the warrant was issued.

~~(10) The provisions of any written law which provides the procedure for the execution of a search warrant in respect of computer systems shall apply to the execution of a search warrant under this Part.~~

7. (1) Where a complaint is made in writing, and upon oath, to a Magistrate or Justice, that an indictable offence has been committed by any person whose appearance he has power to compel, the Magistrate or Justice shall consider the allegations of the complainant, and where he is of the opinion that a case for so doing is made out, he shall issue a summons or warrant in accordance with this Act.

Complaint in writing

(2) A complaint under section 1 shall be in the form set out as Form B in Schedule 1.

Schedule 1

8. (1) Where a complaint is made in writing and upon oath, a Magistrate may in the first instance, if he is of the opinion that a

Warrant in the first instance

case for so doing is made out, issue a warrant for the apprehension of the accused person.

(2) In determining whether to issue a warrant under subsection (1), a Magistrate shall consider-

- (a) the nature and seriousness of the offence;
- (b) the likelihood of the accused person evading service of a summons;
- (c) the character, antecedents, associations and social ties of the accused person; and
- (d) any other factor which appears to be relevant.

(3) A warrant under subsection (1) may be issued and executed at any time and on any day including a Saturday, Sunday or public holiday.

(4) Notwithstanding, the fact that a summons has been issued, a Magistrate may at any time before or after the time mentioned in the summons for the appearance of the accused person, issue a warrant for the apprehension of the accused person.

(5) Where the service of a summons for the appearance of the accused person is proved and the accused person does not appear, or where it appears that the accused person is willfully avoiding service, a Magistrate may issue a warrant for the apprehension of the accused person.

(6) A Magistrate may issue a warrant under subsection (4) or (5) upon oath being made on behalf of the complainant substantiating the matter of the complaint to the satisfaction of the Magistrate to apprehend the person so summoned or avoiding service to answer the complaint.

- (a) be directed to the accused person and shall require him to appear at a certain time and place to be mentioned in the summons; and
- (b) not be signed in blank.

(2) A summons shall be served by a constable upon the accused person, 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 or most usual place of abode.

(3) The constable who served a summons under subsection (2) shall attend at the time and place mentioned in the summons for the appearance of the accused person, in order, if necessary, to prove the service.

(4) Notwithstanding subsection (3), a Magistrate before whom the accused person ought to appear may, in his discretion, receive proof of the service by affidavit in the absence of the constable who served the summons under subsection (3), and such affidavit may be made before any Magistrate.

(5) A summons shall be in the form set out as Form C in Schedule 1.

Schedule 1

**10.** (1) A Magistrate issuing a warrant under this Act for the arrest of any person in respect of any offence may, subject to the provisions of the Bail Act, grant him bail by 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 person arrested is to be released on bail subject to a duty to appear before a Magistrate at such time as may be specified in the endorsement; and
- (b) fix the amount in which any surety is to be bound.

(3) Where a warrant has been endorsed for bail under subsection (1), then, on the person referred to in the warrant being taken to a police station on arrest under the warrant, the officer in charge of the police station may release him from custody in accordance with the endorsement.

Irregularity in  
summons,  
warrant, service  
or arrest

11. (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, or between any of them and the evidence adduced on the part of the prosecution, shall affect the validity of any proceeding.

(2) Where an accused person is before a Magistrate, whether voluntarily or upon summons, or after being apprehended with or without warrant, or while in custody for the same or any other offence, proceedings may be held notwithstanding any -

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

(3) Where a Magistrate is of the view that any irregularity, illegality, defect or error mentioned in this section has occurred and that the ends of justice require it, he may make any necessary amendments, and, if it is expedient to do so, adjourn the proceedings upon such terms as he may think fit.



**PART III**  
**PRE-TRIAL PROCEDURE**

12. (1) A person who is arrested and charged with an indictable offence shall be brought before a Magistrate as soon as practicable.

Appearance  
before  
Magistrate

(2) Where an accused person appears before a Magistrate charged with an offence triable only on indictment in the Court, the Magistrate shall, after informing him of the charge, send him forthwith to the Court for trial for the offence.

(3) Where an accused person appears before a Magistrate charged with an either-way offence, the Magistrate shall after informing him of the charge –

- (a) send him forthwith to the Court for trial for the offence if the prosecutor recommends trial on indictment;
- (b) send him forthwith to the Court for trial for the offence if the prosecutor recommends summary trial and –
  - (i) the accused person does not consent;
  - (ii) in the case of a joint trial, all the accused persons do not consent; or
  - (iii) where two or more charges are to be tried together, the accused person does not consent in respect of all the charges; or
- (c) proceed with a view to summary trial if the prosecutor so recommends and –
  - (i) the accused person consents;
  - (ii) in the case of a joint trial, all the other accused persons consent; and

- (iii) where two or more charges are to be tried together, the accused person consents in respect of all the charges.

(4) Where an accused person is sent for trial under subsection (2) or (3)(a) or (b) the Magistrate shall at the same time send him to the Court for trial for any summary offence with which he is charged and which appears to the Magistrate to be related to the offence mentioned in subsection (2) or (3), as the case may be.

(5) Where an accused person who has been sent for trial under subsection (2) or (3)(a) or (b) subsequently appears or is brought before a Magistrate charged with an either-way or summary offence which appears to the Magistrate to be related to the indictable offence mentioned in subsection (2) or (3), as the case may be, the Magistrate shall send him forthwith to the Court for trial for that subsequent offence.

**(6) Where an accused person is sent for trial under subsection (2) or (3)(a), the Magistrate shall issue a notice to the Registrar specifying the offence or offences for which an the accused person is sent for trial and the Magistrate shall cause-**

**(a) a copy of the notice to be served on the accused person and filed in the Court; and**

**(b) a copy of the complaint to be filed in the Court.**

**(7) Where an accused person is sent for trial under subsection (2) or (3)(a) for more than one offence, the Magistrate shall in relation to each offence specify in the notice under subsection(6) for each offence,**

**(a) the section under which the accused person is so sent; and**

**(b) if applicable, the offence to which that offence appears to the Magistrate to be related.**

**(8) Where an accused person is sent for trial under subsection (2) or (3)(a), he is shall to appear before the Court on-**

**(a) its next available session day as determined by the Registrar; or**

**(b) such other session day as may, subject to the approval of the Registrar, be agreed between the accused person and the prosecutor, and for the purposes of this subsection, “session day” means a day upon which the Court sits or is to sit in accordance with the Supreme Court of Judicature Act.**

Chap 4:01

**(6) (9)** A Magistrate may grant an accused person bail in accordance with the Bail Act or, subject to section 54(1) of the Children’s Act, remand him in custody by warrant in the form set out in Schedule 2.

Schedule 2

**(7) (10)** Except where an accused person is sent to the Court for trial, a Magistrate may adjourn the appearance of the accused person before him and the adjournment shall not, unless the accused person and the prosecution consent, be for longer than twenty-eight clear days.

(8) (11) Where a Magistrate is satisfied that an accused person who has been remanded is, by reason of illness, accident or other sufficient cause, unable to appear before him at an adjournment pursuant to subsection (7), the Magistrate may, in the absence of the accused person, order him to be further remanded for no longer than twenty-eight clear days.

**13. (1) Subject to subsection (2), where** an accused person is sent to the Court under section 12 for the trial of any offence, the police shall, within twenty-one days from the date on which the accused person is sent **or within such further period as the Court may, on application by the Commissioner of Police, permit,** submit to the Director of Public Prosecutions -

Transmission  
of documents  
by police to  
DPP

- (a) the complaint;
- (b) any account given by the accused person in **an interview or a statement;**
- (c) any written statement of a witness or document exhibit;
- (d) a list of any other exhibits;
- (e) the accused person's criminal record;
- (f) any available statement of the effect of the offence on a victim, a victim's family or any other person.

**(2) An exhibit which becomes available to the police after the expiration of the period referred to in subsection (1) may, with the leave of the Court, be submitted to the Director of Public Prosecution within such period as the Court may specify.**

Initial details of  
prosecution case



14. (1) Subject to subsection (2), the Director of Public Prosecutions shall, within three months of receiving documents pursuant to section 13 cause initial details of the prosecution case to be –

- (a) filed in the Court ;and
- (b) served on the accused person or his Attorney-at-law.

(2) For the purposes of this section, initial details of the prosecution case shall include –

- (a) a summary of the circumstances of the offence;
- (b) any account given by the accused person in interview, whether contained in that summary or any other document;
- (c) any written statements of a witness or documentary exhibit that the prosecutor then has available and considers material to the plea, or to the allocation of the case for trial, or to sentence;
- (d) the accused person's criminal record, if any; and
- (e) any available statement of the effect of the offence on a victim, a victim's family or any other person.

(3) The Court may, on application, grant the Director of Public Prosecutions such extension of the time specified in subsection (1) as the Court thinks fit.

Prosecutor's duty  
of disclosure

**15. (1)** Subject to subsection (2), the prosecutor shall-

- (a) disclose to the accused person or his Attorney-at-law all the evidence he intends to rely upon at trial;
- (b) subject to subsection (3), disclose to the accused person or his Attorney-at-law any material in his possession that he does not intend to use at trial which materially weakens the prosecution case or assists the accused person; and
- (c) confirm if any material in his possession that he does not intend to use at trial, which materially weakens the prosecution case or assists the accused person, has been served on the accused person or his Attorney-at-law.

(2) The prosecutor shall comply with subsection (1) –

- (a) in the first instance on or before such date as is fixed by the Court; and
- (b) within fourteen days of attaining any additional evidence or material referred to in subsection (1)(a) or (b), where the additional evidence or material is obtained before the accused person is indicted but after the prosecutor has complied with paragraph (a).

(3) The prosecutor shall disclose material under subsection (1)(b), unless the Court orders that such material should not be disclosed in the public interest.

16. (1) Where the prosecutor has ~~complied~~ confirmed the service of material on the accused person or his Attorney-at-law in accordance with section 15(1)(c) and (2)(a), the Court shall convene a hearing and address the accused person in the following words or words to the like effect: Notice of alibi

“I must warn you that on trial on indictment you may not be permitted to give evidence of an alibi unless you have given particulars of the alibi and witnesses in support thereof. You may give those particulars now to this Court or in writing to the Director of Public Prosecutions not later than ten days from this hearing.”

(2) If it appears to the Court that the accused person does not understand the meaning of the term ‘alibi’, the Court shall explain it to him.

(3) Where an accused person intends to rely on an alibi in his defence to a charge and he has not given particulars of the alibi to the Court pursuant to subsection (1), he shall within the period specified in subsection (1), serve on the Director of Public Prosecutions a notice of alibi in such form that is prescribed in the Rules of Court.

(4) On trial on indictment, the accused person shall not, without leave of the Court, adduce evidence in support of an alibi, unless he has previously given particulars of the alibi in accordance with subsection (1) or (3).

(5) Where the Court grants an accused person leave under subsection (4) to adduce evidence in support of an alibi, the Court

shall grant the prosecutor sufficient time to prepare to test the evidence.

(6) In this section, “evidence in support of an alibi” means evidence tending to show that by reason of the presence of the accused person 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.

(7) A notice of alibi shall include the name and address of any witness in support of the alibi or if the name or address is not known to the accused person at the time at which he gives notice, any information in his possession which might be of material assistance in finding the witness.

Custody of  
documents and  
exhibits

17. (1) Subject to this Act, documents referred to in section 13 and received from the police, by the Director of Public Prosecutions, shall be kept by the Director of Public Prosecutions until the indictment, if any, to which they relate is filed, and shall then be transmitted to the Registrar, who shall keep them and produce them to-

- (a) the Court at the trial of the accused person; or
- (b) the sentencing Judge where an order for the committal for sentence of the accused person is made under section 22(1)(b).

(2) All exhibits, other than documentary exhibits, shall be taken charge of by the police or such other appropriate body as the Court may order, and shall be produced by them or it to –

- (a) the Court at the trial of the accused person; or



(b) the sentencing Judge where an order for the committal for sentence of the accused person is made under section 22(1)(b).

18. (1) A person who is charged with an indictable offence may be indicted for any offence for which he was charged or for any offence which, in the opinion of the Director of Public Prosecutions, is disclosed by the documents or evidence submitted to the Director of Public Prosecutions.

Preferral of indictment

(2) Where the Director of Public Prosecutions does not prefer an indictment against an accused person within twelve months after the prosecutor has complied with section 15 or within such further period as the Court may, on application, permit, the accused person may apply to a Judge for a discharge and the Judge may discharge the accused person 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) An accused person who is discharged under subsection (2) shall not be tried for the same offence in respect of which he is discharged without leave of a Judge of the Court of Appeal.

Chap. 12:02

(4) The Criminal Procedure Act shall apply to an indictment preferred under this Act.

Preferral of indictment without complaint in certain circumstances

19. The Director of Public Prosecutions may, whether or not a complaint has been filed, prefer an indictment 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.

Chap. 6:04

Lost or destroyed documents

20. (1) Where the original of a complaint, any statement of any witness, any documentary exhibit to the statement, or any notice of alibi or other statement of the accused person is lost or destroyed,

then in all proceedings at trial, secondary evidence of the contents of the document shall be admitted in every case in which the original document would be admissible.

(2) 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 where the document is a —
  - (i) private document, by any evidence with which secondary evidence as to private documents may be authenticated; and
  - (ii) public document, by a certified copy thereof issued by the officer to whose custody the original was entrusted.

Fresh evidence

**21.** Where an accused person has been indicted for an offence and additional evidence of a material nature in support of the offence becomes available, the new evidence may, with notice to the accused person and the leave of the Court, be given as fresh evidence at the trial.

Committal for sentence

**22. (1)** Except when the charge is one of treason or murder, if an accused person who is represented by an Attorney-at-law informs the Court that he is guilty of the charge and the Court is satisfied that the plea represents a clear acknowledgement of guilt, the Court shall —

- (a) cause his statement of guilt to be taken down in writing, read to him and signed by him;
- (b) order the accused person to be committed for sentence before the Court; and

- (c) by warrant, commit the accused person to prison to be there safely kept until the sittings of the Court, or until he is admitted to bail or delivered by due course of law.

(2) The statement of guilt of the accused person made under this section shall be received in evidence upon its mere production, without further proof, by the Court before which he is brought for sentence.

(3) The Court shall, within fourteen days of making an order for the committal for sentence of the accused person, transmit to the Director of Public Prosecutions a copy of the order and the statement of guilt of the accused person and the Director of Public Prosecutions shall prefer and file in the Court an indictment against the accused person committed for sentence within four months of the committal for sentence.

(4) The Registrar shall, within one month after the filing of an indictment pursuant to subsection (3), transmit to the sentencing Judge the complaint, the initial details of the prosecution case filed under section 14(1), the statement of guilt of the accused person and the order for the committal for sentence of the accused person.

**23.** (1) If an accused person who is committed for sentencing is granted bail, the recognisance of bail shall be taken in writing either from the accused person and one or more sureties or from the accused person alone, in the discretion of the Court, according to the Bail Act, and shall be signed by the accused person and his surety or sureties, if any.

Bail on  
committal  
for  
sentencing

(2) The condition of such recognizance shall be that the accused person shall personally appear before the Court at anytime from the date of the recognisance to answer to any indictment that



may be filed against him in the Court, and that he will not depart the Court without leave of the Court, and that he will accept service of any such indictment at some place to be named in such condition.

(3) A recognisance under this section shall be in the form set out in Schedule 3.

Schedule 3

Conveying  
accused person  
to prison

**24.** (1) Where an accused person is not released on bail, a constable shall convey him to the prison, and shall there deliver him, together with the warrant of commitment in the form set out in Schedule 4, to the Keeper of the prison, who shall thereupon give the constable a receipt for the accused person, which shall set forth the condition in which the accused person was when he was delivered into the custody of the Keeper.

Schedule 4

(2) It shall not be necessary to address any warrant under this or any other section of this Act to the Keeper of the prison, but, upon delivery of any such warrant to the Keeper by the person charged with the execution of the warrant, the Keeper shall receive and detain the accused person named in the warrant or detain him, if already in his custody, for the period and for the purpose as the warrant directs.

(3) In case of adjournments or remands, the Keeper shall bring the accused person, or cause him to be brought, at the time and place fixed by the warrant for that purpose, before the Magistrate or the Court, as the case maybe.

(4) This section shall apply to every person who is committed to prison under any provision of this Act.

Bailing of  
accused person  
after committal

**25.** (1) Where an accused person is not released on bail only because he does not procure a sufficient surety or sureties for appearing to take his bail, the Magistrate or Court shall endorse on the warrant of commitment, or on a separate paper, a certificate of



his consent to the accused person being bailed, and shall state the amount of bail which ought to be required.

(2) Any Magistrate or Justice attending or being at the prison where an accused person is confined shall, on the production of a certificate under subsection (1), grant him bail accordingly, and shall order him to be discharged by a warrant of deliverance.

(3) If it is inconvenient for a surety or sureties to attend at the prison to join the accused person in the recognisance of bail, the committing Magistrate may make a duplicate of the certificate, under subsection (1).

(4) Upon the production to any Magistrate of a duplicate of the certificate under subsection (3), the Magistrate may take the recognisance of the surety or sureties in conformity with the certificate, and shall transmit the recognisance, if and when so taken, to the Keeper of the prison.

(5) Upon a recognisance and a duplicate of a certificate under subsection (3) being produced to any Magistrate or Justice attending or being at the prison, where an accused person is confined, the Magistrate or Justice may take the recognisance of the accused person, and thereupon the Magistrate or Justice shall order him to be discharged by a warrant of deliverance.

26. The Court may at any time, on the petition of an accused person charged with an offence, grant him bail in accordance with the Bail Act and the recognisance of bail may, if the Court so directs, be taken before the Registrar.

Judge may grant bail

27. Where an accused person is bailed pursuant to this Act, a Magistrate or the Court may on the application of the surety or of either of the sureties of the accused person, and on information being laid in writing and upon oath by the surety, or by some person on his behalf, that there is reason to believe that the person so bailed is

Apprehension of accused person on bail but about to abscond

about to abscond for the purpose of evading justice, issue his warrant for the apprehension of the person so bailed, and afterwards, on being satisfied that the ends of justice would otherwise be defeated, commit such person when so arrested to prison until his trial, or until he produces another sufficient surety or other sufficient sureties, as the case may be, in like manner as before.

Power to revoke  
or require higher  
bail

**28.** (1) Where an accused person who is released on bail is subsequently indicted by the Director of Public Prosecutions for a non-bailable offence, the Court shall, on being informed of the fact by any police officer of the First Division of the Police Service, issue his warrant for the arrest of the accused person and commit him to prison in the same manner as if he had been originally committed to prison to await trial for the offence for which he is indicted.

(2) For the purposes of this section, a person shall be deemed to be indicted when the indictment against him has been filed in the Court.

(3) Where an accused person has been released on bail by the Court or a Magistrate, and circumstances arise which, if the accused person had not been admitted to bail, would justify the Court or Magistrate in refusing bail or in requiring bail of greater amount, the Court or Magistrate, as the case may be, may, on the circumstances being brought to its or his notice by any police officer of the First Division of the Police Service, issue a warrant for the arrest of the accused person, and, after giving the accused person an opportunity of being heard, may either commit him to prison to await trial or grant him bail for the same or an increased amount, as the Court or Magistrate may think just.

**29.** All persons committed to prison under this Act shall be committed to any prison to be determined by the Commissioner of

Place of  
commitment

Prisons.

**30.** (1) No person shall, unless the Court or Magistrate directs otherwise, print, publish, cause or procure to be printed or published, in relation to any charge for an indictable offence, any particulars other than the following:

Restriction on publication of, or report of charge

(a) the name, address and occupation of the accused person ~~and any witnesses~~; and

(b) a concise statement of the charge,

(2) Nothing in this section shall apply to the printing or reproduction by any other method of any pleading, transcript of evidence or other documents for use in connection with any judicial proceedings or the communication thereof to persons concerned in the proceedings, or to the printing or publishing of any notice or report in pursuance of the directions of the Court or Magistrate.

(3) A person who acts in contravention of this section is liable on summary conviction in respect of each offence to a fine of one hundred and fifty thousand dollars and imprisonment for two years.

## **PART IV**

### **MISCELLANEOUS**

Part VI of the  
Summary Courts  
Act to apply

**31.** Part VI of the Summary Courts Act shall continue to apply to the summary trial of certain indictable offences.

Rules of Court  
Chap. 4:01

**32.** The Rules Committee established by the Supreme Court of Judicature Act may, subject to negative resolution of Parliament, make rules for the purposes of this Act.

Repeal of  
Chap. 12:01, Act  
No. 20 of 2011  
and Act No. 14  
of 2014

**33.** The Indictable Offences (Preliminary Enquiry) Act, the Administration of Justice (Indictable Proceedings) Act, 2011 and the Indictable Offences (Committal Proceedings) Act, 2014 are repealed.

Transitional

**34.** Notwithstanding section 33 -

- (a) the Indictable Offences (Preliminary Enquiry) Act shall continue to apply to preliminary enquiries in which evidence has been led prior to the coming into force of this Act;
- (b) section 39 of the Indictable Offences (Preliminary Enquiry) Act shall continue to apply to any trial where the preliminary enquiry was conducted under the Indictable Offences (Preliminary Enquiry) Act prior to the commencement of this Act;
- (c) the Indictable Offences (Preliminary Inquiry) Act shall continue to apply for the purposes of section 12 of the Extradition Commonwealth and Foreign Territories Act; and
- (d) the Indictable Offences (Preliminary Inquiry) Act shall continue to apply for the purposes of section 200(4) of the Defence Act.

**35.** The written laws specified in the First Column of Schedule 5 are amended to the extent specified in the Second Column of that Schedule.

Consequential  
amendments  
Schedule 5.



**SCHEDULE 1**

**FORM A**

[Section 6(3)]

**REPUBLIC OF TRINIDAD AND TOBAGO**

**REPORT TO A MAGISTRATE IN RESPECT TO A  
SEARCH WARRANT ISSUED UNDER SECTION 6 OF THE  
INDICTABLE OFFENCES (PRE-TRIAL PROCEDURE) ACT,  
2018.**

Magisterial District of .....

To the Magistrate who issued a search warrant to the undersigned  
pursuant to section 6 of the Indictable Offences (Pre-Trial  
Procedure) Act, 2018 (or another Magistrate of the Magisterial  
District).

I (name, rank and regimental number of police officer) have in  
execution of a search warrant issued by (name of Magistrate) on  
(date)

1. Searched premises (description of place) situated at; and
2. Seized the following things:

Things seized .....  
(Describe each thing seized)

.....  
Signature of police officer

**FORM B**

[Section 7(2)]

**REPUBLIC OF TRINIDAD TOBAGO**

**COMPLAINT UPON OATH  
*INDICTABLE OFFENCE***

Magisterial District of.....

A.B. Complainant

v.

C.D. Accused Person

The complaint of A.B. of .....

Who said on this oath (1).....that C.D., of  
.....(2) .....

.....  
Signature of Complainant

Taken before me this .....day of ....., 20....at .....

.....  
(Magistrate or Justice)

- (1) Or, affirmation.  
(2) State concisely the substance of the complaint.

**FORM C**

[Section 9(5)]

**REPUBLIC OF TRINIDAD AND TOBAGO**

**SUMMONS TO ACCUSED PERSON ON COMPLAINT**

Magisterial District of .....

A.B. Complainant

v.

C.D. Defendant

To C.D. of .....

Whereas complaint has this day been made before me. The undersigned Magistrate [or Justice] for the ..... District, for that you (1) ..... This is to command you to be and appear at ..... o'clock ..... m., on ..... the ..... day of ....., 20....., at ..... Before the Magistrate [or Justice] in the said complaint and to be further dealt with according to law.

Dated this ..... day of ....., 20.....

(Signed) .....  
(Magistrate or Justice)

**SCHEDULE 2**

[Section 12(6)]

**REPUBLIC OF TRINIDAD TOBAGO**

**WARRANT REMANDING A PRISONER**

**TO: POLICE OFFICERS IN TRINIDAD AND TOBAGO**

You are hereby commanded forthwith to arrest, if necessary, and convey to the .....

[Name of Prison]

.....

XY

who has been remanded to.....

[Period of Remand]

And I hereby command you, the Keeper of the said prison, to receive each of the said persons into your custody in the prison and keep him safely until the day when his remand expires and then to have him before me or any other Magistrate at      o'clock    of the said day, there to answer to the charge and to be dealt with according to law, unless you are otherwise ordered before that time.

Dated this .....day of ..... , 20.....

at .....

.....

Magistrate



### SCHEDULE 3

[Section 23(3)]

#### RECOGNISANCE OF BAIL ON COMMITTAL

##### THE STATE

*Against*

***A.B. on the charge of C.D. for [state offence briefly].***

At ..... in the said Trinidad and Tobago on this ..... day of ..... in the year of Our Lord Two Thousand ..... of ..... in the said Trinidad and Tobago, acknowledges himself to be indebted to the State, in the sum of....., and ..... of ..... acknowledges himself to be indebted to the State, in the sum of .....; upon condition that, if the said ..... do personally appear before the High Court, in the ..... of ..... to answer to any indictment that shall be presented against him in the said..... Court in or about the premises, from the date of this acknowledgment, and do not depart the Court without leave, and do accept service of any such indictment at the residence of ..... situated in ..... in the..... of.....and that the said..... in the meantime be of good behaviour, and keep the peace towards the State and especially towards ..... then this recognisance to be void; or else to remain in full force. And the said ..... severally acknowledge themselves debtors *in solidum* to the State in the sums hereinbefore respectively, acknowledged by them upon the property of them and each of them, to the use of the State, to be levied in due form of law, in case of default made in the condition of this recognisance or obligation.

Acknowledged by the said .....on the .  
..... day of ..... 20.....

Witness.....

Before me,

.....

## SCHEDULE 4

[Section 24(1)]

## WARRANT OF COMMITMENT

To .....(Constable), and to  
....., Keeper of the Prison.

Whereas *A.B.* was this day appeared before me the undersigned

Magistrate\Master \_\_\_\_\_ on \_\_\_\_\_ the \_\_\_\_\_ complaint  
of.....  
for that [*state briefly the offence*]:

These are therefore to command you, the said .....  
to take the said .....  
[A.B.]  
and him safely to convey to the ..... 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 .....

.....  
(Magistrate\Master)

## SCHEDULE 5

[Section 35]

### CONSEQUENTIAL AMENDMENTS

| First Column<br>Written Law                          | Second Column<br>Extent of Amendment   |
|--|--|
| 1. Supreme Court of<br>Judicature Act,<br>Chap. 4:01 | In the Schedule, in rule 42, delete the words “Indictable Offences (Preliminary Enquiry) Act” and substitute the words “Indictable Offences (Pre-Trial Procedure) Act, 2018”.  |
| 2. Summary Courts<br>Act, Chap. 4:20                 | <p>A. In section 5, insert after subsection (4) the following new subsection:<br/>“(5) A Clerk of the Peace under this section shall be <i>ex-officio</i> as Justice of the Peace of Trinidad and Tobago.”.</p> <p>B. In section 32, delete the words, and to a Magistrate sitting to take depositions on the hearing of a charge of any indictable offence, and”.</p> <p>C. In section 55, delete the words “, and depositions shall be taken,”.</p> <p>D. In section 63B (2), delete the words “and any other depositions”.</p> <p>E. Repeal section 94.</p> <p>F. In section 97, delete paragraph (b).</p> <p>G. In section 100-<br/>(a) repeal subsection (1) and substitute the following subsection:<br/>“(1) The Indictable Offences (Pre-Trial Procedure) Act, 2018 shall apply to the indictable offences specified in the Second Schedule.”;</p> <p>(b) repeal subsections (2), (3) and (4).</p> |

- |  |  |
|--|--|
| 3. Evidence Act,<br>Chap. 7:02               | Repeal section 15F.  |
| 4. Legal Aid and<br>Advice Act, Chap<br>7:07 | In section 17(1), delete the words “committed for trial under the Indictable Offences (Preliminary Enquiry) Act” and substitute the words “who is sent to the High Court for trial under the Indictable Offences (Pre-Trial Procedure) Act, 2018”.   |
| 5. Sedition Act<br>Chap 11:04                | In section 4(3), delete the words “As if it were a preliminary inquiry” and substitute the words “in accordance with the Indictable Offences (Pre-trial Procedure) Act, 2018”.   |
| 6. Dangerous<br>Drugs Act,<br>Chap. 11:25    | In section 5(7A), delete the words “at the preliminary enquiry” and substitute the words “subject to section 14 in the Indictable Offences (Pre-Trial Procedure) Act, 2018”.   |
| 7. Criminal<br>Procedure Act,<br>Chap. 12:02 | <p>A. Delete the words “Indictable Offences (Preliminary Enquiry) Act”, wherever they occur and substitute the words “Indictable Offences (Pre-Trial Procedure) Act, 2018”; and</p> <p>B. In section 58(1), delete the words, “As soon as convenient” and substitute the words, “Within six months”.</p> <p>C. In section 59(3), delete the words “section 26 of the Indictable Offences (Preliminary Enquiry) Act”, and substitute the words “section 26 of the Indictable Offences (Pre-Trial Procedure) Act, 2018”.</p> |



8. Criminal  
Procedure  
(Corporations)  
Act, Chap. 12:03

A. Repeal section 3 and substitute the following section:

“Corporation  
charged with  
indictable  
offence

3. Subject to this Act,  
where a corporation  
is charged before a  
Magistrate with an  
indictable offence,  
Part III of the  
Indictable Offences  
(Pre-Trial Procedure)  
Act, 2018 shall apply  
to the corporation  
or its representative,  
as the case may be,  
as it applies to an  
accused person.”.

B. Repeal section 7.

C. In section 15(1), delete the words  
“Sections 28 to 37 of the Indictable  
Offences (Preliminary Enquiry)  
Act” and substitute the words  
“Sections 24(1)(c) and 25 to 31 of  
the Indictable Offences (Pre-Trial  
Procedure) Act, 2018”.

**D. In the first Schedule, in rule 3 of  
the Indictable Rules, by inserting  
after the word “any”, the words  
“capital and non-capital”.**

E. In section 15(2)-  
(a) delete the words “inquiry into and”;  
and  
(b) delete the word “sixteen” and  
substitute the word “eighteen”.

F. Delete the Schedule.

9. Children Act, 2012,  
Act. No. 12 of 2012

In section 98(3), delete the words “and  
shall be deemed to be a deposition”.

Passed in the House of Representatives this      day of      ,  
2018.

*Clerk of the House*

I confirm the above.

*Speaker*

Passed in the Senate this      day of      , 2018.

*Clerk of the Senate*

I confirm the above.

*President of the Senate*