

TRAFFICKING IN PERSONS ACT

CHAPTER 12:10

Act
14 of 2011
Amended by
12 of 2012

Current Authorised Pages

<i>Pages (inclusive)</i>	<i>Authorised by L.R.O.</i>
1-8	..
9-33	..

Note on Subsidiary Legislation

This Chapter contains no subsidiary legislation.

Note on Amendment

Section 47 of Act No. 14 of 2011 amended the First Schedule to the Criminal Injuries Compensation Act, Ch. 5:31. These amendments have been duly incorporated into that Act.

CHAPTER 12:10

TRAFFICKING IN PERSONS ACT

ARRANGEMENT OF SECTIONS

SECTION

PART I

PRELIMINARY

1. Short title.
2. Commencement.
3. Interpretation.
4. Object of the Act.

PART II

NATIONAL TASK FORCE

5. Establishment of the Task Force.
6. Functions of the Task Force.
7. Composition and appointment of the Task Force.
8. Chairman of the Task Force.
9. Meetings.
10. Declaration of interest.

PART III

COUNTER-TRAFFICKING UNIT

11. Establishment of the Counter-Trafficking Unit and the designation of authorised officers.
12. Functions of the Counter-Trafficking Unit.

PART IV

ENTRY, SEARCH AND SEIZURE

13. Warrant.

PART V

CRIMINAL OFFENCES AND RELATED PROVISIONS

14. Offence of threatening, assaulting or obstructing a police officer or other workers involved in victim assistance and protection.

ARRANGEMENT OF SECTIONS—*Continued*

SECTION

15. Section 68 of the Interpretation Act not applicable.
16. Trafficking in persons.
17. Inciting, organising or directing another person to traffic in persons.
18. Trafficking in children.
19. Inciting, organising or directing another person to traffic in children.
20. Consent is not a defence and past sexual behaviour inadmissible.
21. Power of the Court to impose higher sentences for aggravated circumstances.
22. Unlawfully procuring, destroying, concealing, removing, confiscating or possessing any travel document or identification document belonging to another.
23. Transporting a person for the purpose of exploiting that person's prostitution.
24. Forfeiture.
25. Knowingly receiving financial benefit from trafficking in persons.
26. Knowingly receiving financial benefit from trafficking in children.
27. Offences of bodies corporate.
28. Additional penalties.
29. Compensation for victims and rules of Court relating thereto.
30. Further compensation for victims.
31. Victim may offer a defence.

PART VI

**ASSISTANCE TO AND PROTECTION OF VICTIMS OF
TRAFFICKING**

32. Guiding principles relating to the protection and safety of victims and the identification of victims.
33. Witness protection.
34. Protection of the privacy of victims, including proceedings held *in camera*.

UNOFFICIAL VERSION

UPDATED TO DECEMBER 31ST 2015

SECTION

35. Information for victims.
36. Opportunity for the presentation of the victim's views and concerns.
37. Assistance to victims.
38. Immigration status of victims.
39. Return of victims and accompanying dependents to country of citizenship or lawful residence.
40. Assistance for victims abroad who are nationals or permanent residents.
41. Verification of nationality and age of victim.
42. Assistance to victims who are unable to prove their resident status through ordinary means.
43. Services for returned victims of trafficking.
44. Special consideration to be given to child victims.

PART VII

MISCELLANEOUS

45. Minister to lay annual report in Parliament.
46. Regulations.
47. Jurisdiction.

SCHEDULE.

CHAPTER 12:10

TRAFFICKING IN PERSONS ACT

14 of 2011. **An Act to give effect to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organised Crime and for matters connected therewith or incidental thereto.**

*[ASSENTED TO 9TH JUNE 2011]

PART I

PRELIMINARY

Short title. **1.** This Act may be cited as the Trafficking in Persons Act.

Commencement. **2.** This Act came into operation on 2nd January 2013.
407/2012.

Interpretation. **3.** In this Act unless the context otherwise requires—
[12 of 2012]. “abuse of a position of vulnerability” includes—
(a) such abuse that a person would reasonably believe that he has no alternative but to submit to the labour or service demanded of him;
(b) taking advantage of the vulnerabilities of a person resulting from—
(i) the person having entered the country illegally or without proper documentation;
(ii) pregnancy;
(iii) physical or mental disease or disability of the person, including addiction to the use of any substance; or
(iv) reduced capacity to form judgments by virtue of being a child;

“child” means a person below the age of eighteen years;

“child pornography” means a photograph, film, video or other visual representation, whether or not made by electronic,

* See section 2 for the date of commencement of this Act.

mechanical, artistic or other methods, that shows, for a sexual purpose—

- (a) a child engaging in explicit sexual activity or conduct;
- (b) a child in a sexually explicit pose;
- (c) parts of a child’s body pasted to visual representations of parts of an adult’s body or vice versa; or
- (d) parts of a child’s body which have been rendered complete by computer generated images or by other methods of visual representation,

but does not include any written or visual representation produced for the purpose of education, counselling, the promotion of reproductive health or as part of a related criminal investigation and prosecution;

“coercion” means—

- (a) violent coercion; and
- (b) non-violent or psychological coercion, such as—
 - (i) threats of serious harm to or physical restraint against any person;
 - (ii) the abuse or threatened abuse of legal process; or
 - (iii) any scheme, plan or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person;

“debt bondage” means the status or condition of a person arising from his pledge to provide his personal services or those of a person under his control as security for a debt, where—

- (a) the value of those services as reasonably assessed is not applied toward the liquidation of the debt;
- (b) the period during which those services are to be provided is not limited; or
- (c) the nature of those services is not defined;

“exploitation” includes—

- (a) keeping a person in a state of slavery;
- (b) subjecting a person to practices similar to slavery;
- (c) compelling or causing a person to provide forced labour or services;
- (d) the illicit removal of human organs;
- (e) keeping a person in a state of servitude including domestic and sexual servitude;
- (f) child pornography;
- (g) the exploitation of the prostitution of another;
- (h) engaging in any other form of commercial sexual exploitation, including, but not limited to, pimping, pandering, procuring, profiting from prostitution and maintaining a brothel;
- (i) causing a person to transport illegal items within or across borders; and
- (j) deriving a benefit through the abuse of another person;

“exploitation of the prostitution of others” means the deriving by one person of monetary or other benefit through the provision of sexual services for money or other benefit by another person;

“forced labour” means labour or services obtained or maintained through force, threat of force, or other means of coercion or physical restraint;

“illicit removal of human organs” means the unlawful removal of organs, tissue or body parts from a victim irrespective of whether the victim consented to such removal;

“Minister” means the Minister to whom the responsibility for national security is assigned;

Ch. 18:01. “national” has the meaning assigned to it under section 2 of the Immigration Act;

“organised criminal group” means a combination of two or more persons, whether formally or informally organised, acting in concert through its membership or through an agent, with the aim of committing one or more of the offences established under this Act;

“practices similar to slavery” includes debt bondage, serfdom, forced or servile marriages and delivery of children for exploitation;

“premises” include any building, room, vessel, vehicle, aircraft, enclosure or place;

“resident” has the meaning assigned to it under section 2 of the Immigration Act;

“restitution” means financial or other compensation for the victim for damages suffered as a result of being trafficked;

“ritual purposes” means the use of a victim, the victim’s body parts or blood for the conduct of spiritual, religious or occult practices or such other ceremonies and rituals;

“Seized Assets Fund” means the Fund established under section 58 of the Proceeds of Crime Act;

Ch. 11:27.

“servitude” means a condition of dependency in which the labour or the services of a person are provided or obtained by threats of serious harm to that person or another person, or through any scheme, plan or pattern intended to cause the person to believe that, if the person does not perform such labour or services, that person or another person will suffer serious harm;

“sex tourism” means trips organised for profit from—

(a) within the tourism sector; or

(b) outside that sector but using its structures and networks,

to facilitate sexual activity with trafficked persons;

“sexual activity” means an activity which a reasonable person would consider that—

(a) whatever its circumstances or any person’s purpose in relation to it, it is, because of its nature, sexual; or

(b) because of its nature it may be sexual and because of its circumstances or the purposes of any person in relation to it, or both, it is sexual;

“sexual exploitation” means compelling a person to engage in—

(a) prostitution;

(b) the production of child pornography or other pornographic material; or

(c) any other sexual activity,

by means of threat, coercion, abduction, the effects of drugs, force, fraud or abuse of power;

“slavery” means the status or condition of a person over whom any or all the powers attaching to the right of ownership are exercised;

“trafficking in persons” means the recruitment, transportation, transfer, harbouring or receipt of persons by means of the threat or use of force or other forms of coercion, abduction, fraud, deception, the abuse of power, the abuse of a position of vulnerability or the giving or receiving of payment or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation;

“trafficking in children” means the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation, irrespective of the means used so long as the purpose is the exploitation of the child;

“Task Force” means the National Task Force Against Trafficking in Persons established under section 5;

“travel document” means any document that can be used for travel between States such as—

(a) a passport;

(b) a visa;

(c) a tourist card;

(d) an airline ticket; and

(e) any other document used under the laws of a State to establish identity in that State; and

“victim” means a person against whom an offence is committed or against whom an offence is alleged to have been committed under this Act.

Object of the Act.

4. The object of the Act is to prescribe measures to prevent and combat trafficking in persons including children, by—

(a) protecting and assisting victims of trafficking;

- (b) facilitating the efficient investigation of cases of trafficking in persons;
- (c) facilitating the prosecution of individuals and organisations involved in trafficking in persons; and
- (d) promoting co-operation between Trinidad and Tobago and other States in order to prevent and suppress trafficking in persons and to punish offenders.

PART II

NATIONAL TASK FORCE

5. There shall be established a Task Force to be known as the “National Task Force Against Trafficking in Persons”.

Establishment of the Task Force.

6. (1) The functions of the Task Force shall be as follows:

Functions of the Task Force.

- (a) to establish policies and develop a national plan of action, consisting of a comprehensive set of measures—
 - (i) for the prevention of trafficking in persons and trafficking in children;
 - (ii) for the identification of, assistance to and protection of victims;
 - (iii) for the prosecution of traffickers; and
 - (iv) for the repatriation of victims,in partnership with non-governmental organisations, inter-governmental organisations and other States and to co-ordinate the implementation of the national plan;
- (b) to develop plans in consultation with representatives of civil society to provide victims of trafficking where appropriate with suitable housing, employment, educational and training opportunities, psychological counselling, legal assistance or legal information and medical assistance;
- (c) to develop, review, evaluate and revise, if necessary, a national counter-trafficking plan;

- (d) to co-ordinate the collection and sharing of trafficking data among government agencies in a manner which respects the privacy of victims of trafficking;
- (e) to co-ordinate the sharing of information between agencies for the purpose of determining whether individuals entering Trinidad and Tobago with travel documents belonging to other persons or without travel documents are perpetrators of the offences involving trafficking in persons or trafficking in children, and for the purpose of detecting organised criminal groups engaged in trafficking;
- (f) to identify and engage in efforts to facilitate co-operation with foreign countries, particularly those which are a significant source of victims, transit locations, or destinations of victims by liaising with counterpart organisations in those countries;
- (g) to strengthen bilateral, multilateral, local and regional capacities to assist trafficking victims, prevent trafficking, prosecute traffickers, and to enhance co-operative efforts between destination countries and countries of origin and assist in the appropriate reintegration of victims of trafficking;
- (h) to measure and evaluate the progress of Trinidad and Tobago in the areas of—
 - (i) trafficking prevention;
 - (ii) protection and assistance to victims of trafficking; and
 - (iii) prosecution and enforcement against traffickers, including persons in the public sector who facilitate trafficking in persons and trafficking in children and the role of corruption in such facilitation;
- (i) to evaluate all programmes developed pursuant to this Act to ensure their effectiveness;

- (j) to evaluate all public awareness programmes to ensure their effectiveness; and
- (k) to prepare the quarterly and annual reports of the activities of the Task Force and submit them to the Minister.

(2) In formulating and developing plans under subsection (1)(b) and (1)(c) to provide services to victims, and in delivering such services, all plans shall take into account the age, gender and special needs of the victims and accompanying dependent children.

7. (1) The Task Force shall comprise the Ministers responsible for foreign affairs, labour, social development, national security, justice and education.

Composition
and
appointment of
the Task Force.

- (2) The Task Force may co-opt—
 - (a) the head of the Central Authority;
 - (b) the Chairman of the Board of the Children’s Authority;
 - (c) other appropriate public officers, whether on contract or otherwise, with responsibility for law enforcement, intelligence, immigration, social development, health, education, gender affairs, finance, foreign affairs, labour and justice, who shall be appointed by the Chairman on the recommendation of the respective ministers and who shall hold office for two years but may be eligible for reappointment; and
 - (d) representatives from non-governmental organisations who shall be appointed by the Chairman on the recommendation of any of the ministers referred to in subsection (1), and who shall hold office for two years but may be eligible for reappointment.

(3) The Chairman may, for the purposes of the performance of the functions of the Task Force, co-opt any other Minister as the Task Force sees fit.

Chairman of the Task Force.

8. There shall be a Chairman of the Task Force appointed from among the members who comprise the Task Force under section 7(1).

Meetings.

9. (1) The Task Force shall regulate its own procedures and shall meet at least once every quarter and at such other times as may be expedient or necessary and at such time and on such days as the Task Force may determine.

(2) The Chairman may request that a special meeting of the Task Force be convened.

(3) The Chairman shall preside at all meetings of the Task Force, but where he is absent, the members present shall appoint a Chairman to preside at the meeting.

Declaration of interest.

10. Any member of the Task Force, including the Chairman, whose interest is likely to be directly affected by a decision or determination of the Task Force on any subject matter, shall declare his interest in the subject matter and shall not be present or take part in the meeting when the particular subject matter is being deliberated.

PART III

COUNTER-TRAFFICKING UNIT

Establishment of the Counter-Trafficking Unit and the designation of authorised officers.

11. (1) There shall be established a Counter-Trafficking Unit within the Ministry responsible for national security, which shall be headed by a Director who shall be—

(a) a public officer appointed by the Public Service Commission; or

(b) an officer on contract engaged by the Permanent Secretary in accordance with the Guidelines on Contract Employment established by the Chief Personnel Officer for such purpose, and who shall hold office for three years, but may be eligible for reappointment.

(2) There shall be a Deputy Director who shall be—

(a) a public officer appointed by the Public Service Commission; or

(b) an officer on contract engaged by the Permanent Secretary in accordance with the Guidelines on Contract Employment established by the Chief Personnel Officer for such purpose, and who shall hold office for three years, but may be eligible for reappointment.

(3) The Director and Deputy Director of the Counter-Trafficking Unit shall be persons who possess a combination of qualifications and experience in international relations, management, law or security.

(4) The Counter-Trafficking Unit shall comprise positively vetted, suitably qualified and experienced public officers, and other persons as set out in the Schedule, and who shall possess the required competencies specified therein.

Schedule.

(5) The Counter-Trafficking Unit shall be assisted by “authorised officers”.

- (6) The Minister may designate—
- (a) a police officer;
 - (b) an immigration officer; or
 - (c) any other person,

to be an “authorised officer” for a specific period and purpose.

(7) The Minister may, by Order subject to negative resolution of Parliament, amend the Schedule according to the purposes of the Act.

12. The functions of the Counter-Trafficking Unit are as follows:

Functions of the Counter-Trafficking Unit.

- (a) to efficiently, effectively and proactively investigate matters pertaining to trafficking;
- (b) to conduct and co-ordinate the screening and interviewing of persons in order to identify possible victims of trafficking as well as persons believed to be traffickers;
- (c) to gather evidence in relation to trafficking offences and any offence under this Act so as to secure convictions against traffickers;

- (d) to be responsible for the day-to-day operations of the counter-trafficking response of the Government of the Republic of Trinidad and Tobago;
- (e) to operate a hotline for the reporting of possible cases of trafficking in persons;
- (f) to receive, collate and analyse information from governmental, non-governmental, and other sources in relation to trafficking activities within the Republic of Trinidad and Tobago or involving nationals of Trinidad and Tobago, wherever situated;
- (g) to receive, analyse and investigate all reports of possible cases of trafficking in persons;
- (h) where necessary, to refer possible cases of trafficking in persons to appropriate governmental agencies, civil society or international organisations for requisite action, such as further investigation, communication with foreign embassies or high commissions, and support for victims;
- (i) to refer all matters requiring the initiation of criminal prosecutions to the Office of the Director of Public Prosecutions;
- (j) to liaise with appropriate governmental agencies, civil society or international organisations in providing assistance to and safeguarding victims once identified;
- (k) to liaise with appropriate governmental agencies, civil society or international organisations for a report on the progress and eventual outcome of every case;
- (l) to receive, collate and analyse information received from all sources that have screened and interviewed possible trafficking victims and traffickers;

- (m) to conduct research and collect and analyse data into the trends and patterns of trafficking in persons and the numbers of persons engaged therein as perpetrators and those who are identified as victims of trafficking;
- (n) to create a database containing information from all cases involving trafficking;
- (o) to prepare and furnish monthly reports to the Minister;
- (p) to do such other things as may be delegated to it by the Task Force;
- (q) to prepare and implement public awareness programmes with respect to—
 - (i) educating citizens, residents and visitors to Trinidad and Tobago about sex tourism;
 - (ii) warning citizens, residents and visitors to Trinidad and Tobago that travelling to another country to engage in sex with a minor or a trafficked person may be a crime in the destination country or in the home country or may constitute abuse;
 - (iii) educating potential victims of trafficking and their families of the risk of victimisation; and
 - (iv) discouraging the demand that foster the exploitation of persons, especially women and children, that leads to trafficking;
- (r) to prepare and disseminate educational materials to inform victims of trafficking in Trinidad and Tobago of their rights, the measures in place for their safety, recovery and safe return to their home countries or places of residence in Trinidad and Tobago and how to contact appropriate law enforcement agencies; and
- (s) such other activities related to the effective implementation of this Act.

PART IV

ENTRY, SEARCH AND SEIZURE

Warrant.

13. (1) Where a Judge, Magistrate, Clerk of the Peace or Justice of the Peace is satisfied by information on oath that there are reasonable grounds for suspecting that evidence of or relating to an offence under this Act is to be found on any premises specified in the information, the Judge, Magistrate, Clerk of the Peace or Justice of the Peace may issue a warrant in accordance with subsection (2).

(2) A warrant issued under subsection (1) may authorise a police officer named therein to enter the premises specified therein, with such assistance and by the use of such force as is necessary and reasonable to—

- (a) enter upon the premises;
- (b) search the premises for evidence of or relating to an offence under this Act; and
- (c) seize any article, vehicle or property found in the course of the search that the police officer believes, on reasonable grounds, to be evidence of or relating to an offence under this Act.

(3) A warrant issued under this section shall include a statement of the purpose for which the warrant is issued, and a reference to the nature of the offence of trafficking.

(4) For the purpose of this section, “an offence under this Act” refers to an offence which has been committed or is about to be committed.

PART V

CRIMINAL OFFENCES AND RELATED PROVISIONS

Offence of threatening, assaulting or obstructing a police officer or other workers involved in victim assistance and protection.

14. A person who threatens, assaults or obstructs a police officer acting in the execution of his duty under this Act, or who threatens, assaults or obstructs a social worker, shelter worker, case management worker or any worker who is involved in the provision of assistance and protection to a victim, commits an offence and is liable on summary conviction to a fine of fifteen thousand dollars and to imprisonment for three years.

15. Section 68(2) of the Interpretation Act does not apply to the penalties prescribed in sections 16, 17, 18 and 19.

Section 68 of the Interpretation Act not applicable. Ch. 3:01.

16. A person who, for the purpose of exploitation—

Trafficking in persons.

- (a) recruits, transports, transfers, harbours or receives persons into or within Trinidad and Tobago;
- (b) recruits, transports or transfers persons from Trinidad and Tobago to another jurisdiction;
- (c) receives persons from Trinidad and Tobago into another jurisdiction; or
- (d) harbours persons from Trinidad and Tobago in another jurisdiction, by means of—
 - (i) threats or the use of force or other forms of coercion;
 - (ii) abduction;
 - (iii) fraud or deception;
 - (iv) the abuse of power or the abuse of a position of vulnerability; or
 - (v) the giving or receiving of payment or benefits to achieve the consent of a person having control over another person,

commits the offence of trafficking in persons and is liable on conviction on indictment, to a fine of not less than five hundred thousand dollars and imprisonment of not less than fifteen years.

17. A person who, for the purpose of exploitation, incites, organises or directs another person to—

Inciting organising or directing another person to traffic in persons.

- (a) recruit, transport, transfer, harbour or receive persons into or within Trinidad and Tobago;
- (b) recruit, transport or transfer persons from Trinidad and Tobago to another jurisdiction;
- (c) receive persons from Trinidad and Tobago into another jurisdiction; or
- (d) harbour persons from Trinidad and Tobago in another jurisdiction, by means of—
 - (i) threats or the use of force or other forms of coercion;

- (ii) abduction;
- (iii) fraud or deception;
- (iv) the abuse of power or the abuse of a position of vulnerability; or
- (v) the giving or receiving of payment or benefits to achieve the consent of a person having control over another person,

commits the offence of trafficking in persons and is liable on conviction on indictment, to a fine of not less than five hundred thousand dollars and imprisonment of not less than fifteen years.

Trafficking in children.

18. (1) A person who—

- (a) recruits, transports, transfers or receives a child into or within Trinidad and Tobago;
- (b) harbours a child in Trinidad and Tobago; or
- (c) recruits, transports or transfers a child from Trinidad and Tobago to another jurisdiction,

for the purpose of exploitation, commits the offence of trafficking in children and is liable on conviction on indictment to a fine of not less than one million dollars and imprisonment for not less than twenty years.

(2) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation is sufficient to establish the offence of trafficking in children.

Inciting, organising or directing another person to traffic in children.

19. A person who, for the purpose of exploitation, incites, organises or directs another person to—

- (a) recruit, transport, transfer, harbour or receive a child into or within Trinidad and Tobago; or
- (b) recruit, transport or transfer a child from Trinidad and Tobago to another jurisdiction,

commits the offence of trafficking in children and is liable on conviction on indictment, to a fine of not less than one million dollars and imprisonment of not less than twenty years.

20. (1) In any prosecution for an offence of trafficking under section 16, 17, 18 or 19, the alleged consent of the victim to the intended or realised exploitation is not a defence.

Consent is not a defence and past sexual behaviour inadmissible.

(2) In any prosecution for an offence of trafficking under section 16, 17, 18 or 19, the legal age of consent to sex or to marriage is not a defence.

(3) In any prosecution for an offence of trafficking under section 16, 17, 18 or 19, evidence of a victim's past sexual behaviour is inadmissible for the purpose of proving—

- (a) that the victim engaged in other sexual behaviour; or
- (b) the victim's sexual predisposition.

21. (1) Notwithstanding the penalty imposed under section 16, 17, 18 or 19, where a person is convicted under any of those sections and there is the presence of any of the following aggravating circumstances resulting from acts of the convicted person:

Power of the Court to impose higher sentences for aggravated circumstances.

- (a) the convicted person used, threatened to use, or caused another to use or threaten to use, a dangerous weapon;
- (b) the trafficked person suffered a serious bodily injury, or permanent or life-threatening injury;
- (c) in the course of trafficking or subsequent exploitation, the convicted person caused the trafficked person to be exposed to a life-threatening illness, or the convicted person caused the trafficked person to become addicted to any drug;
- (d) a sexual assault was committed against the trafficked person;
- (e) the trafficking was part of the activity of an organised criminal group;
- (f) the trafficking was part of the activity of an organised criminal group and the convicted person organised the group or directed its activities; and

- (g) the trafficking occurred as the result of abuse of power or abuse of a position of vulnerability, including abuse by a parent or guardian, teacher, the leader of any children’s club or other group, or any other person who had been entrusted with the care or supervision of the child,

the Court may impose an additional term of imprisonment of up to fifteen years.

(2) In this section—

“dangerous weapon” means—

- (a) an instrument capable of inflicting death or serious bodily injury; or
- (b) an object that is not an instrument capable of inflicting death or serious bodily injury, but closely resembles such an instrument, or is used in such a way that it creates the impression that the object is an instrument capable of inflicting death or serious bodily injury;

“life-threatening illness” means any illness that involves a substantial risk of death, and includes Human Immuno Deficiency Virus Infection (HIV/AIDS) and tuberculosis;

“permanent or life-threatening injury” means—

- (a) injury involving a substantial risk of death, loss or substantial impairment of the function of a bodily member, organ or mental faculty that is likely to be permanent;
- (b) a disfigurement that is likely to be permanent; or
- (c) maltreatment to a life-threatening degree, such as by denial of food or medical care that results in substantial impairment of function of the body or mind;

“serious bodily injury” means—

- (a) injury involving extreme physical pain or the protracted impairment of a function of a bodily member, organ or mental faculty; or

- (b) injury requiring medical intervention such as surgery, hospitalisation or physical rehabilitation; and

“sexual assault” means—

- (a) the engagement of another person in a sexual act by a person—
 - (i) using force against that other person;
 - (ii) threatening or placing that person in fear that any person will be subjected to death, serious bodily injury, or kidnapping; or
- (b) the engagement by a person in a sexual act with—
 - (i) an incapacitated person; or
 - (ii) a person who cannot express consent.

(3) Notwithstanding the penalty imposed under section 18 or 19, where a person is convicted under any of those sections and he engages in sexual intercourse with a child who is under the age of 12 years, the Court shall impose a term of imprisonment for the remainder of his natural life.

(4) For the purposes of subsection (3) “sexual intercourse” has the meaning assigned to it under section 25 of the Sexual Offences Act.

Ch. 11:28.

(5) Notwithstanding any penalty imposed for an offence under this Act, where a—

- (a) police officer;
- (b) customs officer;
- (c) immigration officer;
- (d) member of the Defence Force;
- (e) member of the Prison Service; or
- (f) any other official or public officer having the coercive power of arrest under any other written law,

is found to be liable for any offence under this Act, he is liable on conviction on indictment to imprisonment for twenty-five years.

Unlawfully procuring, destroying, concealing, removing, confiscating or possessing any travel document or identification document belonging to another.

22. A person who, for the purpose of trafficking in persons or trafficking in children and acting or purporting to act as another person's employer, manager, supervisor, contractor, employment agent, or solicitor of clients, and who knowingly procures, destroys, conceals, removes, confiscates, or possesses any travel document, or other government identification document, whether actual or purported, belonging to another person, commits an offence and is liable on conviction on indictment to a fine of three hundred and fifty thousand dollars and to imprisonment for twelve years.

Transporting a person for the purpose of exploiting that person's prostitution.

23. (1) A person who transports or conspires to transport another person into or within Trinidad and Tobago or across an international border for the purpose of exploiting that person's prostitution commits an offence and is liable on conviction on indictment to a fine of three hundred and fifty thousand dollars and to imprisonment for twelve years.

(2) Notwithstanding subsection (1), where a person is convicted under subsection (1) and there is the presence of the following aggravating factors resulting from acts of the convicted persons:

- (a) transporting two or more persons at the same time;
- (b) causing permanent or life-threatening bodily injury to the person transported;
- (c) transporting of a child or children; or
- (d) transporting as part of the activity of an organised criminal group,

the Court may impose an additional term of imprisonment of up to twenty years and order that the conveyance used for transporting the victim be forfeited by the State.

Forfeiture.

24. (1) Where a person has been convicted of the offence of trafficking in persons or trafficking in children, and the Court is satisfied that any property, including but not limited to money, valuables and other movable and immovable property of the person convicted was used or intended to be used or was obtained in the course of the crime or any benefits were gained from the proceeds of the crime, the Court shall order that the property or benefit be forfeited to the State to accrue to the Seized Assets Fund.

(2) Overseas assets of persons convicted of trafficking in persons or trafficking in children shall also be subject to forfeiture.

(3) Any property to be forfeited to the State under this section, shall be forfeited in accordance with the Proceeds of Crime Act. Ch. 11:27.

25. A person who receives or obtains a financial or other benefit, knowing that it results from the offence of trafficking in persons commits an offence and is liable on conviction on indictment to a fine of four hundred thousand dollars and to imprisonment for fifteen years. Knowingly receiving financial benefit from trafficking in persons.

26. A person who receives or obtains a financial or other benefit, knowing that it results from the offence of trafficking in children commits an offence and is liable on conviction on indictment to a fine of five hundred thousand dollars and to imprisonment for twenty years. Knowingly receiving financial benefit from trafficking in children.

27. (1) A body corporate which commits an offence against this Act is liable on conviction on indictment to a fine of five million dollars. Offences of bodies corporate.

(2) Where a body corporate commits an offence under this Act, any officer, director or agent of the company who directed, authorised, assented to, acquiesced in or participated in the commission of the offence is liable on conviction to the punishment provided for the offence.

28. (1) Where a body corporate or its director, manager, secretary or other similar officer concerned with the management of a body corporate has been convicted of an offence under this Act, the Court shall have the power, in addition to the power to impose the penalties prescribed for the stated offence to— Additional penalties.

- (a) revoke business licences;
- (b) order that the body corporate be wound up;
- (c) forfeit the assets and properties of the body corporate to the Seized Assets Fund; and
- (d) prohibit the body corporate from performing any further activities.

Compensation for victims and rules of Court relating thereto.

29. (1) Where a person is convicted of the offence of trafficking in persons or trafficking in children, the Court may, in accordance with Rules made under subsection (4), order that compensation be paid to the victim by the person convicted or out of the proceeds of any property forfeited under section 24.

(2) Compensation shall be adequate and shall compensate, where applicable, for any of the following:

- (a) costs of medical and psychological treatment;
- (b) costs of physical and occupational therapy and rehabilitation;
- (c) costs of necessary transportation, temporary housing and child care;
- (d) lost income;
- (e) attorney's fees and other legal costs;
- (f) compensation for emotional distress, pain and suffering;
- (g) any other losses suffered by the victim which the Court considers applicable; and
- (h) where the victim is not a national of, or resident in, Trinidad and Tobago, the cost of returning that person to the country of origin or residence or such third country which will accept his entry.

(3) Compensation payable under this section shall be paid to the victim as soon as practicable after the making of an Order under subsection (1) and in addition to any other remedy or penalty in relation to the offence.

(4) The Rules Committee of the Supreme Court may, subject to negative resolution of Parliament, make rules with respect to the making of an Order for restitution under subsection (1) and any other procedure for giving effect to the Order.

(5) Where there are no rules made by the Rules Committee of the Supreme Court with respect to the making of an Order for restitution under subsection (1) and any other procedure for giving effect to the Order, the Judge may give directions to effect the same.

30. (1) Notwithstanding any other law to the contrary, where a person is convicted of an offence of trafficking, the victim may also apply to the Court for compensation, and the Court shall order that the convicted person pay compensation to the victim.

Further compensation for victims.

(2) Victims of trafficking are also eligible to apply for relief under section 29 of the Criminal Injuries Compensation Act.

Ch. 5:31.

(3) Where an order for compensation to the victim is made in a Court and the victim seeks further compensation in another Court, the Court that awards further compensation shall take into account the amount of compensation already ordered where the Court makes a further order.

(4) The return of the victim to the victim's home country, normal place of residence in Trinidad and Tobago, or other absence of the victim from the jurisdiction, shall not prejudice the victim's right to receive compensation or restitution.

31. Where a victim has been compelled to engage in unlawful activities as a direct result of being trafficked and he has committed any immigration-related offence, or any other criminal offence for which he is being prosecuted, he may offer as a defence, evidence of having been compelled as a victim of trafficking to engage in such unlawful activities.

Victim may offer a defence.

PART VI

ASSISTANCE TO AND PROTECTION OF VICTIMS OF TRAFFICKING

32. In the investigation and prosecution of offences relating to trafficking in persons, the following guiding principles shall apply:

Guiding principles relating to the protection and safety of victims and the identification of victims.

- (a) all steps necessary to identify the victims of trafficking shall be taken;
- (b) a victim of trafficking shall be given reasonable protection to prevent recapture, and to secure him from threats, reprisals and intimidation by the traffickers and their associates;

- (c) where the victim's family resides in Trinidad and Tobago, they shall be given reasonable protection to secure the family from threats, reprisals or intimidation by the traffickers or their associates; and
- (d) the victim shall have an opportunity to consult with an attorney-at-law or other appropriate persons or agency with respect to his rights, safety and welfare.

Witness protection.

33. (1) Victims of trafficking who are witnesses or potential witnesses shall be eligible for applicable witness relocation and protection programmes for victims of organised criminal activity or other serious offences, if it is determined that an offence involving a crime of violence directed at the witness or potential witness is likely to be committed.

(2) The programmes referred to in subsection (1) may include—

- (a) relocation;
- (b) new identity and documents establishing identity;
- (c) new residence;
- (d) work permits; or
- (e) protection of confidentiality of identity and location.

Protection of the privacy of victims, including proceedings held *in camera*.

34. (1) In a prosecution for trafficking under this Act, the identity of the victim and the victim's family shall be kept confidential by ensuring that names and identifying information of the victim and the victim's family are not released to any member of the public or published in the press or media.

(2) A hearing under this section shall be held *in camera* unless the Court otherwise directs.

(3) A person who commits a breach of confidentiality under this section is liable on summary conviction to a fine of one hundred thousand dollars.

Information for victims.

35. The Minister shall cause victims of trafficking to be informed, in a language that they can understand, of their legal

rights and the progress of Court and administrative proceedings, as appropriate, including but not limited to—

- (a) proceedings involving the criminal offenders;
- (b) proceedings for the return of the victims to their country of citizenship or lawful residence; and
- (c) procedures for seeking legal immigration status under the Immigration Act.

Ch. 18:01.

36. Upon conviction of a person for an offence of trafficking under this Act, the Court may provide an opportunity to the victim of trafficking, if the victim desires it, to present his views and concerns.

Opportunity for the presentation of the victim's views and concerns.

37. (1) Victims of trafficking who are not nationals of Trinidad and Tobago and their accompanying dependent children, may receive for the duration of their stay in Trinidad and Tobago, such social benefits including—

Assistance to victims.

- (a) appropriate housing, education and training opportunities;
- (b) psychological counselling;
- (c) legal assistance and legal information; and
- (d) medical assistance,

as may be determined by the Minister to whom the responsibility for social development has been assigned.

(2) Victims who are participants in the Justice Protection Programme may have the option to communicate with and receive visits from family and friends, subject to the terms and conditions of the programme.

(3) In the absence of exigent circumstances, victims of trafficking, once identified as such, shall not be housed in prisons or other detention facilities for accused or convicted criminals.

(4) Child victims of trafficking, once identified as such, shall not be housed in prisons or other detention facilities for accused or convicted criminals under any circumstances.

(5) “Justice Protection Programme” referred to in subsection (2) has the meaning assigned to it in the Justice Protection Act.

Ch. 5:33.

Immigration status of victims.

38. The Minister may provide victims of trafficking and accompanying dependent children with appropriate permits or other required authorisation to allow them to remain and work in Trinidad and Tobago for the duration of the criminal prosecution against the traffickers.

Return of victims and accompanying dependents to country of citizenship or lawful residence.

39. (1) Where victims of trafficking do not desire to remain in Trinidad and Tobago, the Minister and the Minister to whom responsibility for foreign affairs has been assigned shall facilitate the safe return of the victims of trafficking and any accompanying dependent children to their countries of citizenship or lawful residence.

(2) In giving effect to subsection (1), the Ministers may consult with such non-governmental organisations and international organisations as they deem fit.

Assistance for victims abroad who are nationals or permanent residents.

40. The Minister to whom responsibility for foreign affairs has been assigned, through Trinidad and Tobago's diplomatic missions and consular offices abroad, where practicable, shall—

- (a) offer consular assistance, including the provision of necessary travel documents to nationals and residents of Trinidad and Tobago who are abroad and have been identified as victims of trafficking; and
- (b) disseminate information to nationals and residents of Trinidad and Tobago who are abroad and have been identified as victims of trafficking on the rights of victims of trafficking under the laws of Trinidad and Tobago and the laws of the country to which the missions are accredited.

Verification of nationality and age of victim.

41. (1) Upon a request by a competent authority of another State, the Minister shall, without undue or unreasonable delay, verify whether a person who is a victim of trafficking is a national of, or has resident status in, Trinidad and Tobago.

(2) A request made under subsection (1) may include a request for the verification of—

- (a) the name and age of a person who is a victim of trafficking in persons and who is suspected of being a minor; and

(b) any other immigration status the victim may have in Trinidad and Tobago.

(3) The Minister shall designate an officer to deal with requests made under this section.

42. (1) The Minister may make a determination as to the right of victims of trafficking abroad to return to Trinidad and Tobago, where those victims claim to be citizens or persons who have resident status in Trinidad and Tobago but whose identity cannot be verified through ordinary means and who have demonstrated significant connections to Trinidad and Tobago.

Assistance to victims who are unable to prove their resident status through ordinary means.

(2) Victims of trafficking abroad, referred to in subsection (1), may seek to satisfy the Minister of their right to return to Trinidad and Tobago, by demonstrating significant connections to this country through such factors including—

- (a) place of birth;
- (b) presence of family members;
- (c) significant knowledge of specific geographical areas and neighbourhoods;
- (d) long-term residence in Trinidad and Tobago; or
- (e) any other means.

(3) Where the Minister has determined that an individual is eligible to re-enter Trinidad and Tobago under this section, the diplomatic mission abroad shall issue a travel document, permitting entry.

(4) Victims may apply to the High Court for a review of an adverse determination.

43. Victims of trafficking who return from abroad shall have access to educational and training programmes provided by any governmental or private entity without being differentiated from other participants on the basis of having been trafficked.

Services for returned victims of trafficking.

44. (1) Assistance in this Part shall be provided by the Counter-Trafficking Unit to trafficking victims who are children in a manner that is in the child's best interest and appropriate to the child's situation.

Special consideration to be given to child victims.

(2) The Counter-Trafficking Unit shall liaise with the Children's Authority and other appropriate agencies to provide victims who are children with services, which may include the understanding of their rights, privacy, housing, care and appropriate support.

(3) The Counter-Trafficking Unit, in consultation with the Children's Authority, shall develop special programmes for child victims including—

- (a) arrangements, whenever safe and possible, for children to be reunited with their family members in Trinidad and Tobago or in their country of origin; and
- (b) arrangements to facilitate the provision of special mental and physical medical care tailored to children's needs.

PART VII

MISCELLANEOUS

Minister to lay annual report in Parliament.

45. (1) The Minister shall, within three months after the end of each year, cause a copy of the annual report on trafficking in Trinidad and Tobago to be laid in the Parliament.

(2) The report referred to in subsection (1) shall include—

- (a) the number of victims identified;
- (b) the number of investigations initiated;
- (c) the number of persons arrested;
- (d) the number of prosecutions commenced and the outcome; and
- (e) any other pertinent matter which the Minister considers necessary.

Regulations.

46. The Minister may make Regulations, subject to negative resolution of Parliament, for giving effect to the purposes of this Act.

47. A Court in Trinidad and Tobago shall have the jurisdiction to try an offence under this Act where the act constituting the offence has been carried out—

- (a) wholly or partly in Trinidad and Tobago;
- (b) by a national of Trinidad and Tobago anywhere, whether in Trinidad and Tobago or elsewhere; or
- (c) by a person on board a vessel or aircraft registered in Trinidad and Tobago.

SCHEDULE

Section 11(4).

1. The Counter-Trafficking Unit shall include—

- (a) authorised officers;
- (b) social workers;
- (c) psychologists;
- (d) communications specialists;
- (e) administrative staff;
- (f) an Attorney-at-law; and
- (g) such other officers that are necessary for the carrying out of the purposes of the Act.

2. The competencies of the personnel of the Counter-Trafficking Unit referred to in paragraphs 1(a) to (e) shall include—

- (a) investigative, interviewing and other interviewing skills specially pertaining to—
 - (i) interviewing of suspects;
 - (ii) interviewing of vulnerable witnesses; and
 - (iii) victim interviewing;
- (b) understanding and recognising victim traumatic stress disorder and referral of victims to appropriate agencies;
- (c) victim identification, assistance and protection;
- (d) evidence gathering;
- (e) intelligence gathering and co-operation; and
- (f) fluency in a language other than English.