
Third Session Eleventh Parliament Republic of
Trinidad and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 2 of 2018

[L.S.]

AN ACT to amend the Mutual Assistance in Criminal Matters Act, the Proceeds of Crime Act, the Financial Intelligence Unit of Trinidad and Tobago Act, the Customs Act and the Exchange Control Act

[Assented to 15th May, 2018]

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

1. This Act may be cited as the Short title Miscellaneous Provisions (Mutual Assistance in Criminal Matters, Proceeds of Crime, Financial Intelligence Unit of Trinidad and Tobago, Customs and Exchange Control) Act, 2018.

Chap. 11:24
amended

2. The Mutual Assistance in Criminal Matters Act is amended in section 22(2)—

- (a) in paragraph (j), by inserting after the word “;” the word “or”; and
- (b) by deleting paragraph (k).

Chap. 11:27
amended

3. The Proceeds of Crime Act is amended—

- (a) in section 44, by deleting subsection (2); and
- (b) in section 53(1), by deleting all the words after the word “liable” and substituting the following words:

“—

- (a) on summary conviction, to a fine of twenty-five million dollars and to imprisonment for fifteen years; and
- (b) on conviction on indictment, to a fine of fifty million dollars and to imprisonment for thirty years.”.

Chap. 72:01
amended

4. (1) The Financial Intelligence Unit of Trinidad and Tobago Act is amended—

- (a) in section 2, in the definition of “Egmont Group” by deleting all the words after the word “subscribe” and substituting the words “to the Egmont Group Statement of Purpose and its Principles for Information Exchange Between Financial Intelligence Units for Money Laundering and Terrorism Financing Cases;”;
- (b) in section 8, in subsection (3)—
 - (i) in paragraph (c)(ii), by inserting after the words “patterns,” the words “trends and typologies”; and

- (ii) in paragraph (f), by inserting after the word “may” the words “, on its own motion, or upon request”;
- (c) in section 12, in subsection (4), by inserting after the words “liable on” the word “summary”;
- (d) in section 17—
 - (i) in subsection (1)(a)(i), by deleting the words “as noncompliant or not sufficiently compliant with its recommendations” and substituting the words “as jurisdictions that have strategic anti-money laundering and counter financing of terrorism deficiencies”;
 - (ii) by inserting after subsection (2), the following new subsections:
 - “ (3) The FIU may, where it deems necessary, publish by Notice in the *Gazette* and in at least two newspapers in daily circulation in Trinidad and Tobago, a list of the countries identified by an FSRB as having strategic anti-money laundering and terrorist financing deficiencies.
 - (4) For the purposes of this section, “FSRB” means a FATF-style regional body established to effectively develop, promote and implement the Recommendations and Policies of the Financial Action Task

Force in order to combat money laundering, terrorist financing and proliferation financing.”;

(e) in section 18G, by inserting after subsection (2), the following new subsections:

“ (2A) In order to secure compliance with the written laws listed under section 18F, the FIU may require any person to provide to it any documents, information or explanation on any information and advise the person that they have a right against self-incrimination as guaranteed under section 5(1)(d) of the Constitution.

(2B) A warrant under subsection (2) may include the requirement to provide a police officer with any information or any explanation on any information in accordance with subsection (1)(b).

(2C) Without prejudice to any other written law, a person who—

- (a) wilfully obstructs a police officer in the exercise of his powers or the performance of his duties under this section;
- (b) wilfully fails to comply with any requirement properly made to him by any such police officer; or
- (c) without reasonable excuse, fails to give such police officer any other assistance which he may reasonably require to be

given for the purpose of exercising his powers or performing his duties under this section,

commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for twelve months.

(2D) A person who, when required to give information to a police officer in the exercise of his powers or the performance of his duties under this section, knowingly gives false or misleading information to any such police officer is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for twelve months.

(2E) Nothing in this section shall be construed as requiring any person to give any information which may incriminate him.”; and

(f) in section 27, by inserting after subsection (2), the following new subsection:

“ (3) Notwithstanding section 63 of the Interpretation Act, a person who commits an offence under Regulations made under this Act may be liable on conviction on indictment.

(4) A person who contravenes Regulations made under this section commits an offence and shall be liable—

(a) on summary conviction to a fine of five hundred thousand dollars and to a further fine of twenty-five thousand dollars for each day that the offence continues; or

(b) on conviction on indictment to a fine of one million dollars and to a further fine of fifty thousand dollars for each day that the offence continues.”.

(2) The Financial Intelligence Unit of Trinidad and Tobago Regulations are amended—

- (a) in regulation 19(1), by inserting after the word “may” the words “on his own motion or”;
- (b) in regulation 19(3), by inserting after the word “requested” the words “or provided of his own motion”;
- (c) in regulation 26(1)(d)(ii), by inserting after the word “laundering” the words “and financing of terrorism”;
- (d) in regulation 28(1), by deleting the words “set out in the Schedule” and substituting the words “approved by the FIU”;
- (e) in regulation 29, by deleting the words “six months” and substituting the words “thirty days”;
- (f) in regulation 29A, by deleting the words “six months” and substituting the words “thirty days”; and
- (g) by repealing the Schedule.

Chap. 78:01
amended

5. The Customs Act is amended—

- (a) in section 2, by deleting the definition of “Waters of Trinidad and Tobago” and substituting the following definition:

“ “Waters of Trinidad and Tobago” means the territorial sea as defined in section 3 of the Territorial Sea Act.”;

Chap. 1:51

- (b) in section 23—
 - (i) in subsection (2A)—
 - (A) by deleting the words “one year” and substituting the words “six years”; and

- (B) by inserting after the words “imported goods,” the words “and by notice in writing to the importer,”;
- (ii) by inserting after subsection (2A), the following new subsection:

“ (2B) Where an importer receives notice of an adjustment in accordance with subsection (2A) which results in further duties or taxes being payable and the importer or consignee fails to commence proceedings before the Appeal Board within six months from the date he received notice of the adjustment, the Comptroller may refuse entry or delivery of subsequent shipments of the importer or consignee who has not paid the adjustment in addition to commencing proceedings under section 246 for the recovery of same.”;

(c) in section 45—

- (i) in subsection (1), by deleting paragraph (c) and substituting the following paragraph:

“(c) firearms, ammunition, bullet-proof vests and firearm accessories including—

- (i) lasers;
- (ii) lights;
- (iii) holsters;

(iv) scopes; and

(v) tools for the purposes of maintaining a firearm,

except with the written permission of the Commissioner of Police;”;
and

(ii) by inserting after subsection (1), the following new subsection:

“ (1A) Subsection (1)(c), in relation to firearm accessories, shall not apply to the holder of a Firearm Users’ Licence under the Firearms Act.”;

(d) in section 228—

(i) in subsection (1)—

(A) by deleting the word “three” where it first occurs, and substituting the word “six”;

(B) by deleting the words “three months” and substituting the words “thirty days”;

(C) by deleting the word “six” and substituting the word “three”; and

(D) by deleting the words “date of the written request” and substituting the words “date he received the written request”; and

(ii) in subsection (4)—

(A) by deleting the words “neglects or refuses” and substituting the word “fails”; and

(B) by deleting all the words from the words “, the Comptroller” to the end and substituting the words “he commits an offence and is liable on summary conviction to a fine of one hundred and twenty-five thousand dollars.”;

(e) by inserting after section 259, the following new section:

“Declaration
of treaty in
force

259A. (1) Where a treaty has been concluded between Trinidad and Tobago and any other territory in relation to the provision of mutual assistance between or amongst Customs Administrations, the Minister may by Order, subject to negative resolution of Parliament, declare that the treaty shall have the force of law in Trinidad and Tobago subject to such limitations, conditions, exceptions or qualifications as may be specified in the Order.

(2) The Minister shall not make an Order under subsection (1), unless the treaty provides for the determination by either party to the Treaty.

(3) An Order made under subsection (1), shall recite or embody the terms of the treaty and shall not remain in force for any longer period than the treaty.

(4) In this section—

“Customs Administration” means the department or agency of a State responsible for the enforcement of its statutory or regulatory provisions concerning the importation, exportation, transit and transshipment of goods; and

“treaty” means any Convention, Treaty, Agreement or Arrangement for the time being in force between Trinidad and Tobago and any other territory.”;

(f) by inserting after section 274, the following new section:

“Require-
ment to
keep
documents” 274A. (1) Subject to sub-
section (2), every importer,
exporter, agent, customs broker,
customs clerk, warehouse-keeper
or operator of a port, transit shed

or sufferance wharf, who conducts any transaction under this Act or any other Customs law, shall keep or cause to be kept at his place of business or residence in Trinidad and Tobago or at such other place as may be approved by the Comptroller, all books, records, documents and any other information relating to the transaction for a period of not less than six years from the date the goods subject to the transaction were entered or exported.

(2) Where goods under this section have not yet been entered, all documents, books, records and any other information relating to the goods shall be kept for a period of seven years.

(3) A person referred to in subsection (1) shall, as and when required by an Officer in writing, but within thirty days from the date of receipt of the written request—

- (a) make the books, records, documents or other information requested available to the Officer; and
- (b) provide copies of the books, records, documents or other information, as required.

(4) Subject to subsection (2), every Officer shall cause to be kept at such place as the Comptroller may direct, all documents, books, records and any other information he receives in the execution of his duties for a period of not less than six years from the date the goods were entered or exported.

(5) A person referred to in subsection (4) shall, as and when required by the Comptroller in writing, within thirty days of the date of receipt of the written request, provide the books, records, documents or other information available to the Comptroller.

(6) A person who fails to comply with this section commits an offence and is liable on summary conviction to a fine of one hundred and twenty-five thousand dollars.”.

Chap. 79:50
amended

6. (1) The Exchange Control Act is amended—

(a) in section 2, by inserting after the definition of “authorized dealer”, the following new definition:

“bearer negotiable instrument”
means monetary instruments in bearer form such as travellers’ cheques; negotiable instruments including cheques, promissory notes and money

orders that are either in bearer form, endorsed without restriction, made out to a fictitious payee, or otherwise in such form that title thereto passes upon delivery; incomplete instruments including travellers' cheques, cheques, promissory notes and money orders signed but with the payee's name omitted;";

(b) in section 22(1)—

- (i) in paragraph (b), by inserting after the word “;” the word “and”; and
- (ii) by inserting after paragraph (b), the following new paragraph:

“(c) any bearer negotiable instrument;”;

(c) in section 23(1), by inserting after paragraph (a), the following new paragraph:

“(b) any bearer negotiable instrument.”.

(2) The Exchange Control (Import and Export) Order, 1993 is amended—

(a) in clause 3, by inserting after subclause (4), the following new subclauses:

“(5) There shall be exempted from the provisions of section 22(1)(c) of the Act, the importation into Trinidad and Tobago of bearer negotiable instruments brought in on the person or in the baggage of a traveller to the extent of TT\$20,000.00 currency in value.

(6) There shall be exempted from the provisions of section 22(1)(c) of the Act, the importation into Trinidad and Tobago of bearer negotiable instruments brought in on the person or in the baggage of a traveller to the extent of US\$5,000.00 currency in value.

(7) There shall be exempted from the provisions of section 22(1)(c) of the Act, the importation into Trinidad and Tobago of bearer negotiable instruments brought in on the person or in the baggage of a traveller amounting to more than TT\$20,000.00 currency in value in respect of which a declaration is made to the Comptroller under the Customs Act.

(8) There shall be exempted from the provisions of section 22(1)(c) of the Act, the importation into Trinidad and Tobago of bearer negotiable instruments brought in on the person or in the baggage of a traveller amounting to more than US\$5,000.00 currency in value in respect of which a declaration is made to the Comptroller under the Customs Act.”;

(b) in clause 4, by inserting after subclause (2), the following new subclauses:

“ (3) There shall be exempted from the provisions of section 23(1)(e) of the Act, the exportation from Trinidad and Tobago by any traveller

on his person or in his baggage of bearer negotiable instruments as follows:

- (a) which are to the extent of TT\$20,000.00 currency in value; or
- (b) amounting to more than TT\$20,000.00 currency in value in respect of which a declaration is made to the Comptroller under the Customs Act.

(4) There shall be exempted from the provisions of section 23(1)(e) of the Act, the exportation from Trinidad and Tobago by any traveller on his person or in his baggage of bearer negotiable instruments as follows:

- (a) which are to the extent of US\$5,000.00 currency in value; or
- (b) amounting to more than US\$5,000.00 currency in value, in respect of which a declaration is made to the Comptroller under the Customs Act.”; and

(c) in clause 5, by inserting after the words “legal tender in any country” the words “or bearer negotiable instruments expressed other than in Trinidad and Tobago or United States currency in value”.

Passed in the House of Representatives this 12th day of January, 2018.

J. SAMPSON-MEIGUEL

Clerk of the House

Passed in the Senate this 13th day of March, 2018.

B. CAESAR

Clerk of the Senate (Ag.)

Senate amendments were agreed to by the House of Representatives this 4th day of May, 2018.

J. SAMPSON-MEIGUEL

Clerk of the House