

*Legal Supplement Part C to the "Trinidad and Tobago Gazette", Vol. 61,
No. 6, 13th January, 2022*

No. 1 of 2022

Second Session Twelfth Parliament Republic of
Trinidad and Tobago

HOUSE OF REPRESENTATIVES

BILL

AN ACT to amend the Judicial and Legal Service Act,
Chap. 6:01, the Prison Service Act, Chap. 13:02, the
Defence Act, Chap. 14:01, the Police Service Act,
Chap. 15:01, the Civil Service Act, Chap. 23:01, the
Fire Service Act, Chap. 35:50 and the Financial
Intelligence Unit of Trinidad and Tobago Act,
Chap. 72:01 to provide a regulatory framework
for polygraph and drug testing and biometric
identification for members of the Protective
Services and certain offices in the Judicial and
Legal Service and the Civil Service and for other
related matters

THE MISCELLANEOUS PROVISIONS (TESTING AND
IDENTIFICATION) BILL, 2022

Explanatory Note

(These notes form no part of the Bill but are intended only to
indicate its general purport)

The Bill seeks to amend the Judicial and Legal Service Act, Chap. 6:01, the Prison Service Act, Chap. 13:02, the Defence Act, Chap. 14:01, the Police Service Act, Chap. 15:01, the Civil Service Act, Chap. 23:01, the Fire Service Act, Chap. 35:50 and the Financial Intelligence Unit of Trinidad and Tobago Act, Chap. 72:01 to provide a regulatory framework for polygraph and drug testing and biometric identification for members of the Protective Services and certain offices in the Judicial and Legal Service and the Civil Service.

This Bill would be inconsistent with sections 4 and 5 of the Constitution and is therefore required, pursuant to section 13, to be passed by a special majority of three-fifths of the members of each House.

Clause 1 would provide for the short title and the commencement provision.

Clause 2 would provide for the Act to be inconsistent with the Constitution.

Clauses 3 to 9 would insert new sections and subsections in the Acts specified above to confer on the relevant Heads of Departments of the Protective Services, the Judicial and Legal Service and the Civil Service an express power to mandate the officers under their purview to submit to polygraph or any other lie-detecting tests, drug tests and the collection of their biometric information for the purposes of integrity testing.

These clauses also provide for the exercise of the power to be restricted to the occurrence of specified circumstances such as where the officer performs any intelligence or counter-intelligence functions, where the officer is assigned to a section, unit, department or division where top secret, secret, confidential or sensitive information is accessed, processed or stored or where there is a reasonable suspicion that the officer is suspected of or involved in misconduct in relation to an ongoing investigation by law enforcement into the commission of a serious criminal offence.

Further, these clauses provide for the President or the respective line Minister to make regulations, subject to the affirmative resolution of the Parliament, to provide for the implementation of these tests and the collection of the biometric information as well as the storage, maintenance and disclosure of the tests and information.

Finally, the clauses provide for the results of the tests and the biometric information to be treated as confidential and to be exempt from disclosure under the Freedom of Information Act, Chap. 22:02.

THE MISCELLANEOUS PROVISIONS (TESTING AND
IDENTIFICATION) BILL, 2022

Arrangement of Clauses

Clause

1. Short title and commencement
2. Act inconsistent with the Constitution
3. Chap. 6:01 amended
4. Chap. 13:02 amended
5. Chap. 14:01 amended
6. Chap. 15:01 amended
7. Chap. 23:01 amended
8. Chap. 35:50 amended
9. Chap. 72:01 amended

BILL

AN ACT to amend the Judicial and Legal Service Act, Chap. 6:01, the Prison Service Act, Chap. 13:02, the Defence Act, Chap. 14:01, the Police Service Act, Chap. 15:01, the Civil Service Act, Chap. 23:01, the Fire Service Act, Chap. 35:50 and the Financial Intelligence Unit of Trinidad and Tobago Act, Chap. 72:01 to provide a regulatory framework for polygraph and drug testing and biometric identification for members of the Protective Services and certain offices in the Judicial and Legal Service and the Civil Service and for other related matters

[, 2022]

Preamble

WHEREAS it is enacted by section 13(1) of the Constitution that an Act of Parliament to which that section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 of the Constitution and, if any Act does so declare, it shall have effect accordingly:

And whereas it is provided in section 13(2) of the Constitution that an Act of Parliament to which that section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House:

And whereas it is necessary and expedient that the provisions of this Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution:

Enactment

ENACTED by the Parliament of Trinidad and Tobago as follows:

Short title and commencement

1. (1) This Act may be cited as the Miscellaneous Provisions (Testing and Identification) Act, 2022.

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

Act inconsistent with the Constitution

2. This Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution.

Chap. 6:01 amended

3. The Judicial and Legal Service Act is amended—

(a) by inserting after section 11 the following new section:

“Testing and
identification

11A. (1) Subject to subsection (2), the Head of Department may order a law officer to submit to the following:

(a) polygraph or any other lie-detecting tests;

(b) drug tests; and

(c) the collection of biometric information.

(2) In exercise of the powers granted under subsection (1), the Head of Department may order a law officer to submit to any or all of the tests or collection of information in subsection (1) where,

- (a) the law officer performs any intelligence or counter-intelligence functions;
- (b) the law officer is assigned to a section, unit, department or division where top secret, secret, confidential or sensitive information is accessed, processed or stored;
- (c) the law officer is part of or involved in an ongoing investigation involving economic loss such as theft, embezzlement, misappropriation, serious or complex fraud or an act of sabotage or espionage or money laundering;
- (d) the law officer has or had access to property, information or files that is the subject of an investigation;

- (e) there is a reasonable suspicion that the law officer was involved in a serious incident under investigation;
- (f) there is a reasonable suspicion that the law officer is suspected of or involved in misconduct in relation to an ongoing investigation by law enforcement into the commission of a serious criminal offence;
- (g) the duties performed by the law officer in relation to his office, post or activities involves having access to or dealing with top secret, secret, confidential or sensitive information; or
- (h) the law officer is in proximity to a person charged or convicted of a serious criminal offence under any of the following Acts:

- (i) Dangerous Drugs Act;

- (ii) Anti-Terrorism Act; or

- (iii) Trafficking in Persons Act.

Chap: 11:25

Chap. 12:07

Chap. 12:10

(3) For the purpose of this section—

- (a) subsection (2) applies to a law officer only while he is on duty;
- (b) “confidential or sensitive information” means information which reasonably could be expected to cause damage to national security if disclosed without prior written authorization;
- (c) “Department” means the Customs and Excise Division, the Immigration Division, the Board of Inland Revenue and the Registrar General’s Department;
- (d) “Head of Department” means—
 - (i) in relation to a law officer of the Customs and Excise Division, the Comptroller of Customs and Excise;
 - (ii) in relation to a law officer of the Immigration Division, the Chief Immigration Officer;

- (iii) in relation to a law officer of the Board of Inland Revenue, the Chairman of the Board of Inland Revenue; and
 - (iv) in relation to a law officer of the Registrar General's Department, the Registrar General;
- (e) "law officer" means—
 - (i) a legal officer of a Department;
 - (ii) an Attorney-at law employed by the State on contract in a Department;
- (f) "secret information" means information which reasonably could be expected to cause serious damage to national security if disclosed without prior written authorization;
- (g) "serious criminal offence" means an offence punishable with a term of imprisonment of five or more years;
- (h) "serious incident" means an accident resulting in the death

of or injury to a person,
 damage to or destruction
 of property or
 environmental harm or
 any risk of such death,
 injury, damage,
 destruction or harm;

- (i) “top secret information” means information which reasonably could be expected to cause exceptionally grave damage to national security if disclosed without prior written authorization.”; and

(b) in section 16—

- (i) by renumbering section 16 as section 16(1);
- (ii) by inserting after the renumbered section 16(1)(i) the following new paragraphs:

“(j) the conduct of polygraph or any other lie-detecting tests and drug tests on, and the collection of biometric information of, persons holding, or applying for, the law offices in the following Departments:

- (i) Customs and
Excise Division;
- (ii) Immigration
Division;

(iii) Board of Inland Revenue; and

(iv) Registrar General's Department;

(*k*) the storage, maintenance, disclosure and destruction of the results of the tests and the collection of the information in paragraph (*j*).”

(iii) by inserting after the renumbered subsection (1) the following new subsection:

“(2) Regulations made under subsection (1)(*j*) and (*k*) shall be subject to the affirmative resolution of Parliament.”; and

(*c*) by inserting after section 16 the following new section:

Confidentiality
and
exemption 16A. The results of the tests conducted and the information collected pursuant to sections 11A and 16(1)(*j*) and (*k*) shall be—

(*a*) treated as confidential and are not to be disclosed; and

(*b*) exempt from disclosure under the Freedom of Information Act.”.

Chap. 22:02

Chap. 13:02
amended

4. The Prison Service Act is amended—

(*a*) by inserting after section 29, the following new section:

“Testing and
identification

29A. (1) Subject to subsection (2), the Commissioner of Prisons may order an officer to submit to the following:

- (a) polygraph or any other lie-detecting tests;
- (b) drug tests; and
- (c) the collection of biometric information.

(2) In exercise of the powers granted under subsection (1), the Commissioner of Prisons may order an officer to submit to any or all of the tests or collection referred to in subsection (1) where,

- (a) the officer performs any intelligence or counter-intelligence functions;
- (b) the officer is assigned to a section, unit, department or division where top secret, secret, confidential or sensitive information is accessed, processed or stored;
- (c) the officer is part of or involved in an ongoing investigation involving economic loss such as theft, embezzlement, misappropriation, serious or complex fraud or an act of sabotage or espionage or money laundering;

- (d) the officer has or had access to property, information or files that is the subject of an investigation;
- (e) there is a reasonable suspicion that the officer was involved in a serious incident under investigation;
- (f) there is a reasonable suspicion that the officer is suspected of or involved in misconduct in relation to an ongoing investigation by law enforcement into the commission of a serious criminal offence;
- (g) the duties performed by the officer in relation to his office, post or activities involves having access to or dealing with top secret, secret, confidential or sensitive information;
- (h) a person is killed or injured as a result of the discharge of a firearm by the officer or the use of physical force by the officer or while in lawful detention or custody; or

- (i) the officer is in proximity to a person charged or convicted of a serious criminal offence under any of the following Acts:

- Chap. 11:25 (i) Dangerous Drugs Act;
- Chap. 12:07 (ii) Anti-Terrorism Act; or
- Chap. 12:10 (iii) Trafficking in Persons Act.

(3) For the purpose of this section—

- (a) subsection (2) applies to an officer whether or not he is on duty;
- (b) “confidential or sensitive information” means information which reasonably could be expected to cause damage to national security if disclosed without prior written authorization;
- (c) “officer” includes—
 - (i) an expert or consultant on contract or an employee of such expert or consultant on that particular job with the Prison Service;

- (ii) a person employed
on contract in
the Prison Service;
- (d) “secret information”
means information
which reasonably could
be expected to cause
serious damage to
national security if
disclosed without prior
written authorization;
- (e) “serious criminal
offence” means an
offence punishable
with a term of
imprisonment of five or
more years;
- (f) “serious incident”
means an accident
resulting in the death
of or injury to a
person, damage to or
destruction of property
or environmental harm
or any risk of such
death, injury, damage,
destruction or harm;
- (g) “top secret informa-
tion” means informa-
tion which reasonably
could be expected to
cause exceptionally
grave damage to
national security if
disclosed without prior
written authoriza-
tion.”; and

(b) in section 30—

(i) by inserting after subsection (1)(k), the following new paragraphs:

“(l) the conduct of polygraph or any other lie-detecting tests and drug tests on, and the collection of biometric information of, a—

(i) person applying to enlist in the Prison Service;

(ii) prison officer; and

(m) the storage, maintenance, disclosure and destruction of the results of the tests and the collection of the information in paragraph (l).”; and

(ii) by inserting after subsection (2) the following new subsection:

“(3) Regulations made under subsection (1)(l) and (m) shall be subject to affirmative resolution of Parliament.”; and

(c) by inserting after section 30 the following new section:

“Confidentiality and exemption

30B. The results of the tests conducted and the information collected pursuant to sections 29A and 30(1)(l) and (m) shall be—

(a) treated as confidential and are not to be disclosed; and

- (b) exempt from disclosure under the Freedom of Information Act.”.

Chap. 22:02

Chap. 14:01
amended

5. The Defence Act is amended by inserting—

- (a) after section 243 the following new section:

“Testing and
identification 243A. (1) Subject to subsection (2), the Chief of Defence Staff may order an officer to submit to the following:

- (a) polygraph or any other lie-detecting tests;
- (b) drug tests; and
- (c) the collection of biometric information.

(2) In the exercise of the powers granted under subsection (1), the Chief of Defence Staff may order an officer to submit to any or all of the tests or collection referred to in subsection (1) where,

- (a) the officer performs any intelligence or counter-intelligence functions;
- (b) the officer is assigned to a section, unit, department or division where top secret, secret, confidential or sensitive information is accessed, processed or stored;
- (c) the officer is part of or involved in an ongoing investigation involving economic loss such as theft, embezzlement,

misappropriation, serious or complex fraud or an act of sabotage or espionage or money laundering;

- (d) the officer has or had access to property, information or files that is the subject of an investigation;
- (e) there is a reasonable suspicion that the officer was involved in a serious incident under investigation;
- (f) there is a reasonable suspicion that the officer is suspected of or involved in misconduct in relation to an ongoing investigation by law enforcement into the commission of a serious criminal offence;
- (g) the duties performed by the officer in relation to his office, post or activities involves having access to or dealing with top secret, secret, confidential or sensitive information;
- (h) a person is killed or injured as a result of the discharge of a firearm by the officer or

the use of physical force
by the officer or while
in lawful detention or
custody; or

- (i) the officer is in proximity
to a person charged or
convicted of a serious
criminal offence under
any of the following
Acts:

(i) Dangerous Drugs
Act;

Chap. 11:25

(ii) Anti-Terrorism
Act; or

Chap. 12:07

(iii) Trafficking in
Persons Act.

Chap. 12:10

(3) For the purpose of this
section—

- (a) subsection (2) applies
to an officer whether or
not he is on duty;

- (b) “confidential or sensitive
information” means
information which
reasonably could be
expected to cause
damage to national
security if disclosed
without prior written
authorization;

- (c) “officer” includes—

(i) an expert or
consultant on
contract or an
employee of
such expert or

consultant on
that particular
job with the
Defence Force;

(ii) a person employed
on contract in
the Defence
Force;

(d) “secret information”
means information
which reasonably could
be expected to cause
serious damage to
national security if
disclosed without prior
written authorization;

(e) “serious criminal
offence” means an
offence punishable with
a term of imprisonment
of five or more years;

(f) “serious incident”
means an accident
resulting in the death
of or injury to a person,
damage to or destruc-
tion of property or
environmental harm or
any risk of such death,
injury, damage,
destruction or harm;

(g) “top secret information”
means information
which reasonably could
be expected to cause
exceptionally grave
damage to national

security if disclosed
without prior written
authorization.”;

(b) after section 244(1)(k) the following new paragraphs:

“(l) the conduct of polygraph or any other lie-detecting tests and drug tests on, and the collection of biometric information of, a—

(i) person offering to enlist in the Force;

(ii) member of the Force;
and

(m) the storage, maintenance, disclosure and destruction of the results of the tests and the collection of the information in paragraph (l).”;

(c) after section 244(2) the following new subsection:

“(2A) Regulations made under subsection (1)(l) and (m) shall be subject to affirmative resolution of Parliament.”; and

(d) after section 246 the following new section:

Confidentiality
and
exemption

247. The results of the tests conducted and the information collected pursuant to sections 243A and 244(1)(l) and (m) shall be—

(a) treated as confidential and are not to be disclosed; and

(b) exempt from disclosure under the Freedom of Information Act.”.

6. The Police Service Act is amended by inserting— Chap. 15:01
amended

(a) after section 77 the following new section:

<sup>“Testing and
identification</sup> 77A. (1) Subject to subsection (2), the Commissioner of Police may order an officer to submit to the following:

- (a) polygraph or any other lie-detecting tests;
- (b) drug tests; and
- (c) the collection of biometric information.

(2) In exercise of the powers granted under subsection (1), the Commissioner of Police may order an officer to submit to any or all of the tests or collection referred to in subsection (1) where,

- (a) the officer performs any intelligence or counter-intelligence functions;
- (b) the officer is assigned to a section, unit, department or division where top secret, secret, confidential or sensitive information is accessed, processed or stored;
- (c) the officer is part of or involved in an ongoing investigation involving economic loss such as theft, embezzlement, misappropriation, serious or complex fraud or an act of sabotage or espionage or money laundering;

- (d) the officer has or had access to property, information or files that is the subject of an investigation;
- (e) there is a reasonable suspicion that the officer was involved in a serious incident under investigation;
- (f) there is a reasonable suspicion that the officer is suspected of or involved in misconduct in relation to an ongoing investigation by law enforcement into the commission of a serious criminal offence;
- (g) the duties performed by the officer in relation to his office, post or activities involves having access to or dealing with top secret, secret, confidential or sensitive information;
- (h) a person is killed or injured as a result of the discharge of a firearm by the officer or the use of physical force by the officer or while in lawful detention or custody; or

(i) the officer is in proximity to a person charged or convicted of a serious criminal offence under any of the following Acts:

- Chap. 11:25 (i) Dangerous Drugs Act;
- Chap. 12:07 (ii) Anti-Terrorism Act; or
- Chap. 12:10 (iii) Trafficking in Persons Act.

(3) For the purpose of this section—

- (a) subsection (2) applies to an officer whether or not he is on duty;
- (b) “confidential or sensitive information” means information which reasonably could be expected to cause damage to national security if disclosed without prior written authorization;
- (c) “officer” includes—
 - (i) an expert or consultant on contract or an employee of such expert or consultant on that particular job with the Police Service;

- (ii) a person employed
on contract in
the Police Service;
- (d) “secret information”
means information
which reasonably could
be expected to cause
serious damage to
national security if
disclosed without prior
written authorization;
- (e) “serious criminal
offence” means an
offence punishable with
a term of imprisonment
of five or more years;
- (f) “serious incident”
means an accident
resulting in the death
of or injury to a person,
damage to or destruc-
tion of property or envi-
ronmental harm or any
risk of such death,
injury, damage,
destruction or harm;
- (g) “top secret information”
means information
which reasonably could
be expected to cause
exceptionally grave
damage to national
security if disclosed
without prior written
authorization.”;

(b) after section 78(1)(o) the following new paragraphs:

“(p) the conduct of polygraph or any other lie-detecting tests and drug tests on, and the collection of biometric information of, a—

(i) candidate for appointment as a trainee in the Police Service;

(ii) police officer; and

(q) the storage, maintenance, disclosure and destruction of the results of the tests and the collection of the informative in paragraph (p).”;

(c) after section 78(2) the following new subsection:

“(3) Regulations made under subsection (1)(p) and (q) shall be subject to affirmative resolution of Parliament.”; and

(d) after section 78 the following new section:

Confidentiality
and
exemption 78A. The results of the tests conducted and the information collected pursuant to sections 77A and 78(1)(p) and (q) shall be—

(a) treated as confidential and are not to be disclosed; and

(b) exempt from disclosure under the Freedom of Information Act.”.

Chap. 22:02

7. The Civil Service Act is amended—

(a) by inserting after section 11 the following new section:

Chap. 23:01
amended

“Testing and
identification

11A. (1) Subject to subsection (2), the Head of Department may order an officer of the—

- (a) Customs and Excise Division;
- (b) Immigration Division;
- (c) Board of Inland Revenue;
- (d) Registrar General’s Department; or
- (e) Transport Division,

to submit to the following:

- (i) polygraph or any other lie-detecting tests;
- (ii) drug tests; and
- (iii) the collection of biometric information.

(2) In exercise of the powers granted under subsection (1), the Head of Department may order an officer to submit to any or all of the tests or collection referred to in subsection (1) where,

- (a) the officer performs any intelligence or counter-intelligence functions;
- (b) the officer is assigned to a section, unit, department or division where top secret, secret, confidential or sensitive information is accessed, processed or stored;

- (c) the officer is part of or involved in an ongoing investigation involving economic loss such as theft, embezzlement, misappropriation, serious or complex fraud or an act of sabotage or espionage or money laundering;
- (d) the officer has or had access to property, information or files that is the subject of an investigation;
- (e) there is a reasonable suspicion that the officer was involved in a serious incident under investigation;
- (f) there is a reasonable suspicion that the officer is suspected of or involved in misconduct in relation to an ongoing investigation by law enforcement into the commission of a serious criminal offence;
- (g) the duties performed by the officer in relation to his office, post or activities involves having access to or dealing with top secret, secret, confidential or sensitive information;

(h) a person is killed or injured as a result of the discharge of a firearm by the officer or the use of physical force by the officer or while in lawful detention or custody; or

(i) the officer is in proximity to a person charged or convicted of a serious criminal offence under any of the following Acts:

(i) Dangerous Drugs Act;

(ii) Anti-Terrorism Act; or

(iii) Trafficking in Persons Act.

Chap: 11:25

Chap. 12:07

Chap. 12:10

(3) This section shall apply

to—

(a) an officer of a Department who is the holder of an office specified in the Schedule to the Civil Service Regulations; and

(b) an officer employed on contract in a Department; and

(4) For the purpose of this section—

(a) subsection (2) applies to an officer only while he is on duty;

- (b) “confidential or sensitive information” means information which reasonably could be expected to cause damage to national security if disclosed without prior written authorization;
- (c) “Department” means the Customs and Excise Division, the Immigration Division, the Board of Inland Revenue, the Registrar General’s Department, and the Transport Division;
- (d) “Head of Department” means—
 - (i) in relation to an officer of the Customs and Excise Division, the Comptroller of Customs and Excise;
 - (ii) in relation to an officer of the Immigration Division, the Chief Immigration Officer;
 - (iii) in relation to an officer of the Board of Inland Revenue, the Chairman of the Board of Inland Revenue;

- (iv) in relation to an officer of the Registrar General's Department, the Registrar General;
- (e) "officer includes"—
 - (i) an expert or consultant on contract or an employee of such expert or consultant on that particular job with the Department;
 - (ii) a person employed on contract in the Department;
- (f) "secret information" means information which reasonably could be expected to cause serious damage to national security if disclosed without prior written authorization;
- (g) "serious criminal offence" means an offence punishable with a term of imprisonment of five or more years;
- (h) "serious incident" means an accident resulting in the death of or injury to a person, damage to or destruction of property or

environmental harm or any risk of such death, injury, damage, destruction or harm;

- (i) “top secret information” means information which reasonably could be expected to cause exceptionally grave damage to national security if disclosed without prior written authorization.”;

(b) in section 28—

- (i) by renumbering section 28 as section 28(1);
- (ii) by inserting after the renumbered section 28(1)(k) the following new paragraphs:

“(l) the conduct of polygraph or any other lie-detecting tests and drug tests on, and the collection of biometric information of, persons holding, or applying for, the following offices:

- (i) an officer of the Customs and Excise Division or a candidate for appointment as an officer of the Customs and Excise Division;

- (ii) an officer of the Immigration Division or a candidate for appointment as an officer of the Immigration Division;
 - (iii) an officer of the Board of Inland Revenue or a candidate for appointment as an officer of the Board of Inland Revenue;
 - (iv) an officer of the Registrar General's Department or a candidate for appointment as an officer of the Registrar General's Department;
 - (v) an officer of the Transport Division or a candidate for appointment as an officer of the Transport Division; and
- (*m*) the storage, maintenance, disclosure and destruction of the results of the tests and the collection of the information in paragraph (*l*).”;

(iii) by inserting after section 28(1) the following new subsection:

“(2) Regulations made under section 28(1)(*l*) and (*m*) shall be subject to affirmative resolution of Parliament.”; and

(c) by inserting after section 28 the following new section:

“Confidentiality and exemption 28B. The results of the tests conducted and the information collected pursuant to sections 11A and 28(1)(*l*) and (*m*) shall be—

(a) treated as confidential and are not to be disclosed; and

(b) exempt from disclosure under the Freedom of Information Act.”.

Chap. 22:02

8. The Fire Service Act is amended by—

Chap. 35:50 amended

(a) inserting after section 15 the following new section:

“Testing and identification 15A. (1) Subject to subsection (2), the Chief Fire Officer may order an officer to submit to the following:

(a) polygraph or any other lie-detecting tests;

(b) drug tests; and

(c) the collection of biometric information.

(2) In exercise of the powers granted under subsection (1), the Chief Fire Officer may order an officer to submit to any or all of the

tests or collection referred to in subsection (1) where—

- (a) the officer performs any intelligence or counter-intelligence functions;
- (b) the officer is assigned to a section, unit, department or division where top secret, secret, confidential or sensitive information is accessed, processed or stored;
- (c) the officer is part of or involved in an ongoing investigation involving economic loss such as theft, embezzlement, misappropriation, serious or complex fraud or an act of sabotage or espionage or money laundering;
- (d) the officer has or had access to property, information or files that is the subject of an investigation;
- (e) there is a reasonable suspicion that the officer was involved in a serious incident under investigation;
- (f) there is a reasonable suspicion that the officer is suspected of or involved in misconduct

in relation to an ongoing investigation by law enforcement into the commission of a serious criminal offence;

(g) the duties performed by the officer in relation to his office, post or activities involves having access to or dealing with top secret, secret, confidential or sensitive information; or

(h) a person is killed or injured as a result of the discharge of a firearm by the officer or the use of physical force by the officer or while in lawful detention or custody.

(3) For the purpose of this section—

(a) subsection (2) applies to an officer whether or not he is on duty;

(b) “confidential or sensitive information” means information which reasonably could be expected to cause damage to national security if disclosed without prior written authorization;

(c) “officer” includes—

(i) an expert or consultant on contract or an employee of such expert or consultant on that particular job with the Fire Service;

(ii) a person employed on contract in the Fire Service;

(d) “secret information” means information which reasonably could be expected to cause serious damage to national security if disclosed without prior written authorization;

(e) “serious criminal offence” means an offence punishable with a term of imprisonment of five or more years;

(f) “serious incident” means an accident resulting in the death of or serious injury to a person, damage to or destruction of property or environmental harm or any risk of such death, injury, damage, destruction or harm;

- (g) “top secret information” means information which reasonably could be expected to cause exceptionally grave damage to national security if disclosed without prior written authorization.”;
- (b) inserting after section 34(1)(n) the following new paragraphs:
 - “(o) the conduct of polygraph or any other lie-detecting tests and drug tests on, and the collection of biometric information of,—
 - (i) a person applying for appointment to an office in the Fire Service;
 - (ii) a fire officer; and
 - (p) the storage, maintenance, disclosure and destruction of the results of the tests and the collection of the information in paragraph (o).”;
- (c) inserting after section 34(1) the following new subsection:
 - “(1A) Regulations made under subsection (1)(o) and (p) shall be subject to affirmative resolution of Parliament.”; and
- (d) inserting after section 34 the following new section:
 - “Confidentiality
and
exemption

34A. The results of the tests conducted and the information collected pursuant to sections 15A and 34(1)(o) and (p) shall be—

 - (a) treated as confidential and are not to be disclosed; and

- (b) exempt from disclosure under the Freedom of Information Act.”.

Chap. 22:02

Chap. 72:01
amended

9. The Financial Intelligence Unit of Trinidad and Tobago Act is amended by—

- (a) inserting after section 7 the following new section:

“Testing and
identification

7A. (1) Subject to subsection (2), the Director of the FIU may order an officer to submit to the following:

- (a) polygraph or any other lie-detecting tests;
- (b) drug tests; and
- (c) the collection of biometric information.

(2) In exercise of the powers granted under subsection (1), the Director of the FIU may order an officer to submit to any or all of the tests or collection referred to in subsection (1) where,

- (a) the officer performs any intelligence or counter-intelligence functions;
- (b) the officer is assigned to a section, unit, department or division where top secret, secret, confidential or sensitive information is accessed, processed or stored;
- (c) the officer is part of or involved in an ongoing investigation involving economic loss such as theft, embezzlement,

misappropriation, serious or complex fraud or an act of sabotage or espionage or money laundering;

(d) the officer has or had access to property, information or files that is the subject of an investigation;

(e) there is a reasonable suspicion that the officer was involved in a serious incident under investigation;

(f) there is a reasonable suspicion that the officer is suspected of or involved in misconduct in relation to an ongoing investigation by law enforcement into the commission of a serious criminal offence; or

(g) the duties performed by the officer in relation to his office, post or activities involves having access to or dealing with top secret, secret, confidential or sensitive information.

(3) For the purpose of this section—

(a) subsection (2) applies to an officer only while he is on duty;

- (b) “confidential or sensitive information” means information which reasonably could be expected to cause damage to national security if disclosed without prior written authorization;
- (c) “officer” includes—
 - (i) an expert or consultant on contract or an employee of such expert or consultant on that particular job with the Financial Intelligence Unit;
 - (ii) a person employed on contract in the Financial Intelligence Unit;
- (d) “secret information” means information which reasonably could be expected to cause serious damage to national security if disclosed without prior written authorization;
- (e) “serious criminal offence” means an offence punishable with a term of imprisonment of five or more years;

(f) “serious incident”
 “means an accident
 resulting in the death
 of or serious injury to a
 person, damage to or
 destruction of property
 or environmental harm
 or any risk of such
 death, injury, damage,
 destruction or harm;

(g) “top secret information”
 means information
 which reasonably could
 be expected to cause
 exceptionally grave
 damage to national
 security if disclosed
 without prior written
 authorization.”;

(b) inserting after section 27(2) the following
 new subsection:

“(3) Notwithstanding subsections (1)
 and (2), the Minister may make
 Regulations, subject to affirmative
 resolution of Parliament, for the
 following:

(a) the conduct of polygraph or
 any other lie-detecting tests
 and drug tests on, and
 the collection of biometric
 information of,—

(i) a person applying for
 appointment to an
 office in the Financial
 Intelligence Unit;

(ii) an officer of the
 Financial Intelligence
 Unit; and

- (b) the storage, maintenance, disclosure and destruction of the results of the tests and the collection of the information in paragraph (a).”; and
- (c) inserting after section 31 the following new section:

“Confidentiality
and
exemption 32. The results of the tests conducted and the information collected pursuant to sections 7A and 27(3) shall be—

(a) treated as confidential and are not to be disclosed; and

(b) exempt from disclosure under the Freedom of Information Act.”.

Chap. 22:02

Passed in the House of Representatives this day
of , 2022.

Clerk of the House

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the House of Representatives and at the final vote thereon in the House has been supported by the votes of not less than three-fifths of all members of the House, that is to say, by the votes of members of the House.

Clerk of the House

I confirm the above.

Speaker

Passed in the Senate this day of ,
2022.

Clerk of the Senate

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the Senate and at the final vote thereon in the Senate has been supported by the votes of not less than three-fifths of all the members of the Senate, that is to say, by the votes of Senators.

Clerk of the Senate

I confirm the above.

President of the Senate

SECOND SESSION
TWELFTH PARLIAMENT
REPUBLIC OF
TRINIDAD AND TOBAGO

BILL

AN ACT to amend the Judicial and Legal Service Act, Chap. 6:01, the Prison Service Act, Chap. 13:02, the Defence Act, Chap. 14:01, the Police Service Act, Chap. 15:01, the Civil Service Act, Chap. 23:01, the Fire Service Act, Chap. 35:50 and the Financial Intelligence Unit of Trinidad and Tobago Act, Chap. 72:01 to provide a regulatory framework for polygraph and drug testing and biometric identification for members of the Protective Services and certain offices in the Judicial and Legal Service and the Civil Service and for other related matters

Received and read the
First time
Second time
Third time
