

EVIDENCE ACT

CHAPTER 7:02

Act

***4 of 1848**

Amended by

*12 of 1855	†24 of 1981
*12 of 1898	2 of 1983
*23 of 1905	27 of 1986
7 of 1912	2 of 1990
31 of 1918	12 of 1991
29 of 1925	6 of 1993
12 of 1942	3 of 1994
39 of 1947	11 of 1996
20 of 1953	28 of 1996
7 of 1955	12 of 1999
16 of 1973	19 of 2005
52 of 1976	5 of 2007
36 of 1978	†24 of 2007
45 of 1979	†16 of 2009
	†5 of 2012

*See Note on Commencement Dates on page 2

†See Note on Amendments on page 2

Current Authorised Pages

<i>Pages</i> <i>(inclusive)</i>	<i>Authorised</i> <i>by L.R.O.</i>
1-70	..

Index of Subsidiary Legislation

	<i>Page</i>
Audio Visual Recording Rules (LN108/2010)	62

Note on Omission

For Notification declaring holders of public offices to be “Government experts” under section 19(4)(e) and (i) *see* LN 158/1983; and LN 175/2007.

Note on Commencement Dates

This Act is a consolidation of several independent enactments relating to evidence.

The first enactment was Ordinance 4 of 1848 which came into operation on 10th March 1848.

The second enactment was Ordinance 12 of 1855 which came into operation on 15th June 1855 and appeared as Chapter 70 in the 1925 Edition. This enactment was amended by 7 of 1912, 31 of 1918 and 29 of 1925.

The third enactment was Ordinance 12 of 1898 which came into operation on 22nd June 1898 and appeared as Chapter 71 in the 1925 Edition.

The fourth enactment was Ordinance 23 of 1905 which came into operation on 14th September 1905 and appeared as Chapter 30 in the 1925 Edition.

In the 1940 Edition Chapters 30, 70 and 71 were consolidated and appeared as the Evidence Ordinance (Chapter 7, No. 9) showing the three respective dates of commencement. This procedure was followed in the 1950 Edition and has been followed in this Edition.

In the first page all the enactments incorporated in this Act are set out in strict chronological order.

Note on Adaptation

Under paragraph 6 of the Second Schedule to the Law Revision Act (Ch. 3:03) the Commission amended certain references to public officers in this Chapter. The Minister’s approval of the amendments was signified by LN 120/1980, but no marginal reference is made to this Notice where any such amendment is made in the text.

Note on Amendments

Act No. 24 of 1981

- A. Act No. 24 of 1981 (the Land Registration Act, 1981) has amended section 31 of, and the Second Schedule to, this Act, but Act No. 24 of 1981 had not, up to the date of the revision of this Act been brought into operation.

Act No. 24 of 2007

- B.** *See* section 52 of Act No. 24 of 2007 for admissibility of documentary evidence regarding this Act.

Act No. 16 of 2009

- C.** Amendments made by Act No. 16 of 2009 took effect from 25th January 2010 (*See* LN 10/2010).

Act No. 5 of 2012

- D.** Section 39 of Act No. 5 of 2012 amended section 19(4) of this Act.

CHAPTER 7:02

EVIDENCE ACT

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.

PART I

GENERAL

2. English law of evidence to be observed.
3. Judicial notice of statutory instrument.
4. Proof of Commonwealth enactment.
5. Credit of witness not to be impeached by general evidence of bad character.
6. Proof may be given of testimony being inconsistent with former statement.
7. Cross-examination as to previous statements in writing.
8. Previous conviction of witness.
9. Instruments may be proved without an attesting witness.
10. Disputed writings may be compared with writing proved genuine.
11. Application of previous sections.
12. *(Repealed by Act No. 28 of 1996).*

PART II

EVIDENCE IN CRIMINAL CASES

13. Competency of accused and husband or wife as witness in criminal cases.
Own application.
No comment if not called as witness.
Cross-examination.
No question to show commission of offence not charged.
Exceptions.
Evidence from box.
- 13A. Abolition of spousal privilege.
- 13B. Abolition of the right of the accused to make unsworn statement.
14. Admissibility of certain trade or business records.
- 14A. Admissibility of photographs.
- 14B. Admissibility of computer records.

SECTION

- 14C. Proof of statement.
- 14D. Admissibility of Government records.
- 14E. Rules of Court.
- 15. Evidence of person charged, if only witness called.
Right of reply.
- 15A. Abolition of rules of corroboration.
- 15B. Proof of criminal conduct.
- 15C. Admissibility of first hand hearsay statements in criminal proceedings.
- 15D. Admissibility of evidence as to credibility of maker of statement.
- 15E. Power of Court to exclude evidence.
- 15F. Application to preliminary enquiry.
- 15G. Transitional.
- 15H. Admissibility of inconsistent statements.
- 15I. Admissibility of evidence by video recording.
- 15J. Definition of certain terms used.
- 15K. Bad character.
- 15L. Abolition of common law rules.
- 15M. Non-accused's bad character.
- 15N. Accused person's bad character.
- 15O. Important explanatory evidence.
- 15P. Important matter in issue between the accused and the prosecution.
- 15Q. Important matter in issue between the accused and a co-accused.
- 15R. Evidence to correct a false impression.
- 15S. Attack on another person's character.
- 15T. Stopping the case where evidence is contaminated.
- 15U. Offences committed by accused when a child.
- 15V. Assumption of truth in assessment of relevance or probative value.
- 15W. Court's duty to give reasons for rulings.
- 15X. Transitional.

PART III

EVIDENCE IN PARTICULAR CASES

- 16. Breach of promise.
- 17. Adultery.
- 18. Revenue cases.

ARRANGEMENT OF SECTIONS—*continued*

SECTION

19. Admission in evidence of documents attested to in a foreign country.
Reports and certificates admissible in evidence in certain circumstances.

PART IV

**EVIDENCE RELATING TO BIRTHS, DEATHS
AND MARRIAGES**

20. Certified copies of entries in registers admissible in evidence.
Necessary authentication of copies of entries.
Evidence of identity of person named in copy of entry.
Proof of births, etc., in Trinidad and Tobago and in United Kingdom
and Republic of Ireland.

PART V

DOCUMENTARY EVIDENCE IN CERTAIN CASES

21. Interpretation.
22. Certified copies of documents admissible in evidence.
23. Officer not compellable to appear as witness unless party to the suit.
24. Printing or tendering false document.
25. Saving former rights.
26. Mode of proof of entry in banker's books.
27. Proof that book is a banker's book.
28. Verification of copy.
29. When banker not compellable to produce book, etc.
30. Court or Judge may order inspection, etc.
31. Fees to be paid.
32. Proof of instrument as to validity of which attestation is necessary.
33. Presumption as to document twenty years old.
34. Saving.

PART VI

EVIDENCE IN CIVIL PROCEEDINGS

35. Interpretation.
36. Hearsay evidence to be admissible only by virtue of this Act and
other statutory provisions, or by agreement.
37. Admissibility of out-of-Court statements as evidence of facts stated.
38. Witness's previous statement, if proved, to be evidence of facts stated.

SECTION

39. Admissibility of certain records as evidence of facts stated.
40. Admissibility of statements produced by computers.
41. Provisions supplementary to sections 37 to 40.
42. Admissibility of evidence as to credibility of maker, etc., of statement admitted under section 37 or 39.
43. Rules of Court.
44. Admissibility of certain hearsay evidence formerly admissible at common law.
45. Findings of adultery and paternity as evidence in civil proceedings.
46. Abolition of certain privileges.
47. Act binds the State.

PART VII

GENERAL AND MISCELLANEOUS

FIRST SCHEDULE—*(Repealed by Act No. 28 of 1996).*

SECOND SCHEDULE.

THIRD SCHEDULE.

CHAPTER 7:02

EVIDENCE ACT

An Act relating to the law of Evidence.

1950 Ed.
Ch. 7. No. 9.
23 of 1905.

Commencement.

[14TH SEPTEMBER 1905]
[15TH JUNE 1855]
[22ND JUNE 1898]

Short title.

1. This Act may be cited as the Evidence Act.

PART I

GENERAL

English law of
evidence to be
observed.
[45 of 1979].

2. Whenever any question arises in any action, suit, information, or other proceeding in or before any Court of Justice, or before any person having by law or by consent of parties authority to hear, receive, and examine evidence touching the admissibility or the sufficiency of any evidence, or the competency or obligation of any witness to give evidence, or the swearing of any witness, or the form of oath or of affirmation to be used by any witness, or the admissibility of any question put to any witness, or the admissibility or sufficiency of any document, writing, matter, or thing tendered in evidence, every such question shall be decided according to the law in force in England on 30th August 1962.

Judicial notice
of statutory
instrument.
[45 of 1979].

3. A Court shall take judicial notice of any statutory instrument made under a written law of Trinidad and Tobago if the statutory instrument has been published in the *Gazette* or in the Revised Edition of the *Laws of Trinidad and Tobago*.

Proof of
Commonwealth
enactment.
[45 of 1979].

4. The written laws of the legislature of any Commonwealth territory may be proved by copies thereof purporting to be printed by the authority of the legislature or the Government of that country.

Credit of
witness not to
be impeached
by general
evidence of bad
character.

5. A party producing a witness shall not be allowed to impeach his credit by general evidence of bad character, but he may, in case the witness in the opinion of the Judge proves adverse,

contradict him by other evidence, or by leave of the Judge, prove that he had made at other times a statement inconsistent with his present testimony; but before such last-mentioned proof can be given, the circumstances of the supposed statement, sufficient to designate the particular occasion, must be mentioned to the witness, and he must be asked whether or not he has made such statement.

6. If a witness, upon cross-examination as to a former statement made by him relative to the subject matter of the indictment or proceeding and inconsistent with his present testimony, does not distinctly admit that he did make the statement, proof may be given that he did in fact make it; but before such proof is given, the circumstances of the supposed statement, sufficient to designate the particular occasion, shall be mentioned to the witness, and he shall be asked whether or not he made the statement.

Proof may be given of testimony being inconsistent with former statement.

7. A witness may be cross-examined as to previous statements made by him in writing, or reduced into writing, relative to the subject matter of the indictment or proceeding without the writing being shown to him; but if it is intended to contradict the witness by the writing, his attention must, before such contradictory proof is given, be called to those parts of the writing which are to be used for the purpose of so contradicting him; but the Judge, at any time during the trial, may require the production of the writing for his inspection, and may make such use of it for the purposes of the trial as he thinks fit.

Cross-examination as to previous statements in writing.

8. A witness may be questioned as to whether he has been convicted of any indictable offence, and upon being so questioned, if he either denies or does not admit the fact, or refuses to answer, the cross-examining party may prove the conviction; and a certificate containing the substance and effect only (omitting the formal part) of the indictment and conviction for such offence, purporting to be signed by the Registrar or Clerk of the Court, or other officer having the custody of the records of the Court where the offender was convicted, or by the deputy of such Clerk or officer, is, upon proof of the identity of the person, sufficient

Previous conviction of witness. [45 of 1979].

evidence of the conviction, without proof of the signature or official character of the person appearing to have signed the same.

Instruments may be proved without an attesting witness.

9. It is not necessary to prove by the attesting witness any instrument to the validity of which attestation is not requisite, and the instrument may be proved as if there had been no attesting witness.

Disputed writings may be compared with writing proved genuine.

10. Comparison of a disputed writing with any writing proved to the satisfaction of the Judge to be genuine is permitted to be made by witnesses; and such writing, and the evidence of witnesses respecting it, may be submitted to the Court and jury as evidence of the genuineness or otherwise of the writing in dispute.

Application of previous sections.

11. This Part shall apply to all Courts of Justice, criminal as well as all others, and to all persons having, by law or by consent of parties, authority to hear, receive, and examine evidence.

12. (Repealed by Act No. 28 of 1996).

PART II

EVIDENCE IN CRIMINAL CASES

Competency of accused and husband or wife as witness in criminal cases. [16 of 1973 2 of 1990 28 of 1996 16 of 2009]. Own application.

13. (1) Every person charged is a competent witness for the defence at every stage of the proceedings, whether the person so charged is charged solely or jointly with any other person; but—

- (a) a person so charged shall not be called as a witness in pursuance of this section except upon his own application;
- (b) the failure of any person charged with an offence, to give evidence shall not be made the subject of any comment by the prosecution;
- (c) **(Repealed by Act No. 28 of 1996).**

No comment if not called as witness.

Cross-examination.

(2) Subject to section 15N, a person charged and being a witness in pursuance of this section may be asked any question in cross-examination, notwithstanding that it would tend to criminate him, as to the offence charged.

(3) *(Repealed by Act No. 16 of 2009).*

(4) A person called as a witness in pursuance of this section shall, unless otherwise ordered by the Court, give his evidence from the witness box or other place from which the other witnesses give their evidence.

Evidence from box.

(5) }
(6) } *(Repealed by Act No. 28 of 1996).*

13A. (1) Subject to this Act and the Children Act, every person is competent and compellable to give evidence.

Abolition of spousal privilege. [28 of 1996]. Ch. 46:01.

(2) A person who is incapable of understanding that he is under an obligation to give truthful evidence is not competent to give evidence.

(3) Where in the opinion of the Court a person is incapable of understanding and of communicating a reply to a question and where that incapacity cannot be readily overcome for the purposes of the trial, that person is deemed incompetent to give evidence.

13B. (1) Subject to subsections (2) and (3), where a person is charged on indictment, he shall not be entitled to make a statement without being sworn, and accordingly if he gives evidence he shall do so on oath and be liable to cross-examination.

Abolition of the right of accused to make unsworn statement. [2 of 1990 28 of 1996].

(2) Nothing in subsection (1) shall —

(a) affect the right of a person charged, if not represented by an Attorney-at-law, to address the Court or jury otherwise than on oath on any matter on which, if he were so represented, such Attorney-at-law could address the Court or jury on his behalf; or

(b) prevent him from making a statement without being sworn, if —

(i) the statement is one which he is by law required to make personally; or

(ii) the statement is made by way of mitigation before the Court passes sentence upon him.

(3) Nothing in this section shall apply to a trial which began before the commencement of this section.

Admissibility of
certain trade or
business
records.
[36 of 1978].

14. (1) In this section—

“statement” includes any representation of fact, whether made in words or otherwise;

“document” includes any device by means of which information is recorded or stored; and

“business” includes every kind of business, profession, occupation, calling, operation or activity, whether carried on for profit or otherwise.

(2) In any criminal proceeding where direct oral evidence of a fact would be admissible, any statement contained in a document and tending to establish that fact shall, on production of the document, be admissible as evidence of that fact if—

(a) the document is, or forms part of, a record relating to any trade or business and compiled, in the course of that trade or business, from information supplied (whether directly or indirectly) by persons who have, or may reasonably be supposed to have, personal knowledge of the matters dealt with in the information they supply; and

(b) the person who supplied the information recorded in the statement in question is dead, or beyond the seas, or unfit by reason of his bodily or mental condition to attend as a witness, or cannot with reasonable diligence be identified or found, or cannot reasonably be expected (having regard to the time which has elapsed since he supplied the information and to all the circumstances) to have any recollection of the matters dealt with in the information he supplied.

(3) For the purpose of deciding whether or not a statement is admissible as evidence by virtue of this section, the Court may draw any reasonable inference from the form or content of the document in which the statement is contained, and may, in deciding whether or not a person is fit to attend as a witness, act on a certificate purporting to be a certificate of a registered medical practitioner.

(4) In determining the weight, if any, to be attached to a statement admissible as evidence by virtue of this section regard shall be had to all the circumstances from which any inference can reasonably be drawn as to the accuracy or otherwise of the statement, and, in particular, to the question whether or not the person who supplied the information recorded in the statement did so contemporaneously with the occurrence or existence of the facts stated, and to the question whether or not that person, or any person concerned with making or keeping the record containing the statement, had any incentive to conceal or misrepresent the facts.

(5) Nothing in this section affects the admissibility of any evidence that would be admissible apart from this section, or makes admissible any statement or document that is privileged.

14A. (1) Subject to subsection (2), in any criminal proceedings a photograph of any object may be admitted in evidence as *prima facie* proof of the identity of that object, provided that the photograph is supported by a certificate signed by the photographer before a Justice of the Peace authenticating the photograph as being a true image of the object aforesaid.

Admissibility of
photographs.
[28 of 1996].

(2) The photographer shall be required to give evidence of the procedure adopted by him to produce the photograph.

14B. (1) In any criminal proceedings, a statement contained in a document produced by a computer shall be admissible as evidence of any fact stated therein if it is shown that—

Admissibility of
computer
records.
[28 of 1996].

- (a) there are no reasonable grounds for believing that the statement is inaccurate because of improper use of the computer;
- (b) at all material times the computer was operating properly, or if not, that any respect in which it was not operating properly or was out of operation was not such as to affect the production of the document or the accuracy of its contents; and
- (c) any relevant conditions specified in Rules of Court are satisfied.

(2) Provision may be made by Rules of Court requiring that in any proceedings where it is desired to give a statement in evidence by virtue of this section, such information concerning the statement as may be required by the Rules shall be provided in such form and at such times as may be so required.

(3) In any proceedings where it is desired to give a statement in evidence in accordance with subsection (1), a certificate—

- (a) identifying the document containing the statement and describing the manner in which it was produced;
- (b) giving such particulars of any device involved in the production of that document as may be appropriate for the purpose of showing that the document was produced by a computer;
- (c) dealing with any of the matters mentioned in subsection (1); and
- (d) signed by a person occupying a responsible position in relation to the operation of the computer,

shall be evidence of anything stated in such certificate, and for the purposes of this subsection it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

(4) Notwithstanding subsection (3), a Court may require oral evidence to be given of anything of which evidence could be given by a certificate under that subsection.

(5) Any person who in a certificate tendered under subsection (3), makes a statement which he knows to be false or does not believe to be true is guilty of an offence and liable—

- (a) on summary conviction to a fine of three thousand dollars and to imprisonment for six months;
- (b) on conviction on indictment to a fine of ten thousand dollars and to imprisonment for two years.

(6) In estimating the weight, if any, to be attached to a statement admitted pursuant to this section regard shall be had to all the circumstances from which any inference can reasonably be drawn as to the accuracy or otherwise of the statement and, in particular—

- (a) to the question whether or not the information reproduced in or derived from the statement was supplied to the relevant computer, or recorded for the purpose of being supplied to it, contemporaneously with the occurrence or existence of the facts dealt with in that information; and
- (b) to the question whether or not any person concerned with the supply of information to that computer, or with the operation of that computer or any equipment by means of which the document containing the statement was produced, had any incentive to conceal or misrepresent the facts.

(7) For the purposes of subsection (6), information shall be taken to be supplied to a computer whether it is supplied directly or, with or without human intervention, by means of any appropriate equipment.

(8) For the purpose of deciding whether or not a document is admissible in evidence by virtue of subsection (1) the Court may draw any reasonable inference—

- (a) from the circumstances in which the statement was made or otherwise came into being; or
- (b) from any other circumstance, including the form and contents of the document in which the statement is contained.

14C. Where a statement contained in a document is admissible in criminal proceedings, it may be proved—

Proof of statement.
[28 of 1996].

- (a) by the production of that document; or
- (b) by the production of a copy of that document, or of the material part of it, whether or not that document is still in existence,

and authenticated in such manner as the Court may approve; and it is immaterial for the purposes of this section the extent to which the original or a copy thereof may have been reproduced.

Admissibility of Government records. [28 of 1996].

14D. (1) In any criminal proceeding or inquest, any record kept by a Government expert relating to anything submitted to him for examination, analysis or report shall be *prima facie* evidence of the particulars recorded therein.

(2) For the purposes of subsection (1) “Government expert” has the same meaning as that expression bears in section 19(4).

Rules of Court. [28 of 1996]. Ch. 4:01.

14E. The Rules Committee established by the Supreme Court of Judicature Act, may, subject to negative resolution of Parliament, make Rules necessary for the purposes of this Part.

Evidence of person charged, if only witness called.

15. (1) Where the only witness to the facts of the case called by the defence is the person charged, he shall be called as a witness immediately after the close of the evidence for the prosecution.

Right of reply.

(2) In cases where the right of reply depends upon the question whether evidence has been called for the defence, the fact that the person charged has been called as a witness shall not of itself confer on the prosecution the right of reply.

Abolition of rules of corroboration. [28 of 1996].

15A. (1) Any requirement at common law whereby at a trial on indictment it is obligatory for the Court to give the jury a warning about convicting the accused on the uncorroborated evidence of a person because that person is—

(a) an alleged accomplice of the accused; or

(b) a person in respect of whom it is alleged that a sexual offence under the Sexual Offences Act, has been committed,

Ch. 11:28.

is abrogated.

(2) Any requirement that is applicable at the summary trial of a person for an offence and corresponds to the requirement mentioned in subsection (1) is abrogated.

(3) Nothing in this section shall prevent a Judge from exercising his discretion to advise a jury of the need for corroboration.

(4) Nothing in this section applies to any trial on indictment or to any proceedings before a Magistrate's Court which began before the commencement of this section.

15B. In any criminal proceedings, evidence of criminal conduct which may be contained in a document may be admissible in evidence if the document—

Proof of criminal conduct. [5 of 2007].

(a) is the best or only evidence of that conduct which is alleged by the prosecution; and

(b) is obtained by or under the hand of the Attorney General in any matter related to mutual legal co-operation pursuant to the Mutual Assistance in Criminal Matters Act.

Ch. 11:24.

15C. (1) Subject to subsection (2), a statement made by a person in a document shall be admissible in criminal proceedings as evidence of any fact of which direct oral evidence by him would be admissible if it is proved to the satisfaction of the Court that such person—

Admissibility of first hand hearsay statements in criminal proceedings. [5 of 2007 16 of 2009].

(a) is deceased;

(b) is unfit, by reason of his bodily or mental condition, to attend as a witness;

(c) is outside of Trinidad and Tobago and it is not reasonably practicable to secure his attendance;

(d) cannot be found after all reasonable steps have been taken to find him;

(e) is kept away from the proceedings by threats of bodily harm and no reasonable steps can be taken to protect the person; or

(f) is fearful and no reasonable steps can be taken to protect the person or others or to protect him or others from financial loss.

(2) Leave may be given by the Court under subsection (1)(a), (e) and (f) only if the Court considers that the statement ought to be admitted in the interest of justice, having regard to—

- (a) the statement's contents;
- (b) any risk that its admission or exclusion will result in unfairness to any party to the proceedings (and in particular to how difficult it will be to challenge the statement if the person who made the statement does not give oral evidence); and
- (c) any other relevant circumstances.

(3) The party intending to tender a statement in evidence under this section shall, at least twenty-one days before the hearing at which the statement is to be tendered, notify every other party to the proceedings as to the statement to be tendered, and as to the person who made the statement.

(4) Where the party intending to tender a statement in evidence under this section has called, as a witness in the proceedings, the person who made the statement, the statement shall be admissible only with the leave of the Court.

(5) For the purpose of subsection (1)(f) "fearful" is to be construed widely and includes fear of the death or injury of another person or of financial loss.

(6) A condition set out in any paragraph of subsection (1) which is in fact satisfied is to be treated as not satisfied if it is shown that the circumstances described in that paragraph are caused—

- (a) by the person in support of whose case it is sought to give the statement in evidence ; or
- (b) by a person acting on his behalf,

in order to prevent the person who made the statement giving oral evidence in the proceedings, whether at all or in connection with the subject matter of the statement.

15D. (1) Where in any criminal proceedings a statement made by a person who is not called as a witness in those proceedings is given in evidence pursuant to section 15C—

Admissibility of evidence as to credibility of maker of statement. [5 of 2007].

- (a) any evidence which, if that person had been called would have been admissible as relevant to his credibility as a witness, shall be admissible in the proceedings for that purpose;
- (b) evidence may, with the leave of the Court, be given of any matter which, if that person had been called as a witness, could have been put to him in cross-examination as relevant to his credibility as a witness but of which evidence could not have been adduced by the party cross-examining him;
- (c) evidence tending to prove that, whether before or after he made the statement, that person made, whether orally or in a document or otherwise, another statement inconsistent therewith, shall be admissible for the purpose of showing that the person has contradicted himself.

(2) Reference in subsection (1) to a person who made the statement and to his making the statement shall be construed respectively as including references to the person who supplied the information from which the document containing the statement was derived and to his supplying that information.

15E. It is hereby declared that in any criminal proceedings the Court may exclude evidence under sections 15B, 15C, except subsection (2), and 15D if, in the opinion of the Court, the prejudicial effect of evidence outweighs its probative value.

Power of Court to exclude evidence. [5 of 2007].

15F. Sections 15B, 15C, 15D and 15E shall also apply to a preliminary enquiry held under the Indictable Offences (Preliminary Enquiry) Act.

Application to preliminary enquiry. [5 of 2007]. Ch. 12:01.

15G. Sections 15B, 15C, 15D, 15E and 15F shall not apply to cases where a person is charged for an offence and is already brought before any Court on or before the 9th March 2007.

Transitional. [5 of 2007].

Admissibility
of inconsistent
statements.
[16 of 2009].

15H. (1) Where in criminal proceedings a person gives oral evidence and—

- (a) he admits making a previous inconsistent statement; or
- (b) a previous inconsistent statement made by him is proved by virtue of section 5, 6 or 7,

the statement is admissible as evidence of any matter stated in it of which oral evidence by that person would be admissible.

(2) Where in criminal proceedings evidence of an inconsistent statement made by a person is given under section 15D(1)(c), the statement is admissible as evidence of any matter stated in it of which oral evidence by that person would be admissible.

Admissibility
of evidence by
video
recording.
[16 of 2009].

15I. (1) This section applies where—

- (a) a person is called as a witness in proceedings for an indictable offence or for the summary trial of an indictable offence;
- (b) the witness claims or has at any time claimed to have witnessed whether visually or in any other way—
 - (i) events alleged by the prosecution to include conduct constituting the offence or part of the offence; or
 - (ii) events closely connected with the offence;
- (c) the witness has previously given a statement of the events in question, whether in response to questions asked or otherwise;
- (d) the statement was given at a time when those events were fresh in the witness's memory or would have been assuming the truth of the claim mentioned in paragraph (b);
- (e) a video recording was made of the statement;
- (f) the witness is a child and the video recording was made in the presence of an adult chosen by the witness;

-
- (g) the Court has made a direction that the video recording should be admitted as evidence in chief of the witness and the direction has not been rescinded; and
- (h) the video recording is played in proceedings in accordance with the direction.
- (2) A direction under subsection (1)(g)—
- (a) may not be made in relation to a video recording given by the accused;
- (b) may be made only if it appears to the Court that—
- (i) the witness's recollection of the events in question is likely to be significantly better in the video recording than it will be when he gives oral evidence in the proceedings; and
- (ii) it is in the interests of justice for the video recording to be admitted, having regard in particular to the matters mentioned in subsection (3).
- (3) Those matters are—
- (a) the interval between the time of the events in question and the time when the video recording was made;
- (b) any other factors that might affect the reliability of what the witness said in the video recording;
- (c) the quality of the video recording; and
- (d) any views of the witness as to whether his evidence in chief should be given orally or by means of the video recording.
- (4) Where, or to the extent that, the witness in his oral evidence in the proceedings asserts the truth of the statements made by him in the video recording, the statements shall be treated as if made by him in that evidence.

(5) The reference in subsection (1)(g) to the admission of a video recording includes a reference to the admission of any part of that recording.

(6) When considering whether or not any part of a video recording should be admitted under this section, the Court shall consider—

- (a) whether admitting that part of the recording would carry a risk of prejudice to the accused; and
- (b) whether the interests of justice nevertheless requires that part of the recording to be admitted in view of the desirability of showing the whole, or substantially the whole, of the video recording.

(7) Where a video recording is admitted under this section, the witness may not give evidence in chief otherwise than by means of the recording as to any matter which, in the opinion of the Court, has been dealt with adequately in the video recording.

(8) A statement made by a witness in a video recording may be admitted under this section whether or not the statement was made on oath.

(9) Nothing in this section shall affect the admissibility of any video recording which would be admissible apart from this section.

Definition of
certain terms
used.
16 of 2009].

15J. In sections 15H and 15I—

“oral evidence” includes evidence which, by reason of any disability, disorder or other impairment, a person called as a witness gives in writing or by signs or by way of any device;

“video recording” means any recording, on any medium, from which a moving image may by any means be produced, and includes the accompanying sound-track.

15K. (1) Reference to evidence of a person's bad character is to evidence of, or a disposition towards, misconduct on his part, other than evidence which—

Bad character.
[16 of 2009].

- (a) has to do with the alleged facts of the offence with which the accused is charged; or
- (b) is evidence of misconduct in connection with the investigation or prosecution of that offence.

(2) For the purpose of this section and sections 15L to 15W, "misconduct" includes the commission of an offence or other reprehensible behaviour.

15L. (1) The common law rules governing the admissibility of evidence of bad character in criminal proceedings are abolished.

Abolition of
common law
rules.
[16 of 2009].

(2) Subsection (1) is subject to any rule of law under which in criminal proceedings evidence of a person's reputation is admissible for the purpose of proving his bad character.

15M. (1) In criminal proceedings evidence of the bad character of a person, other than the accused, is admissible where—

Non-accused's
bad character.
[16 of 2009].

- (a) it is important explanatory evidence;
- (b) it has substantial probative value in relation to a matter which—
 - (i) is in issue in the proceedings; and
 - (ii) is of substantial importance in the context of the case as a whole; or
- (c) all parties to the proceedings agree to the evidence being admissible.

(2) For the purpose of subsection (1)(a), evidence is important explanatory evidence if—

- (a) without it, the Court or jury would find it impossible or difficult to understand other evidence in the case; and
- (b) its value in understanding the case as a whole is substantial.

(3) In assessing the probative value of evidence for the purpose of subsection (1)(b), the Court shall have regard, in particular, to the following factors:

- (a) the nature and number of the events to which the evidence relates;
- (b) when those events are alleged to have happened or existed;
- (c) where—
 - (i) the evidence is evidence of a person's misconduct; and
 - (ii) it is suggested that the evidence has probative value by reason of similarity between that misconduct and other alleged misconduct,

the nature and extent of the similarities and the dissimilarities between each of the alleged instances of misconduct;

- (d) where—
 - (i) the evidence is evidence of a person's misconduct;
 - (ii) it is suggested that that person is also responsible for the misconduct charged; and
 - (iii) the identity of the person responsible for the misconduct charged is disputed,the extent to which the evidence shows or tends to show that the same person was responsible each time.

(4) Except where subsection (1)(c) applies, evidence of the bad character of a person, other than the accused, must not be given without leave of the Court.

Accused
person's bad
character.
[16 of 2009].

15N. (1) In criminal proceedings evidence of the accused's bad character is admissible where—

- (a) all parties to the proceedings agree to the evidence being admissible;

- (b) the evidence is adduced by the accused himself or is given in answer to a question asked by him in cross-examination and intended to elicit it;
- (c) it is important explanatory evidence;
- (d) it is relevant to an important matter in issue between the accused and the prosecution;
- (e) it has substantial probative value in relation to an important matter in issue between the accused and a co-accused;
- (f) it is evidence to correct a false impression given by the accused; or
- (g) the accused has made an attack on another person's character.

(2) Sections 15O to 15S contain provisions supplementing subsection (1).

(3) The Court shall not admit evidence under subsection (1) if, on an application by the accused to exclude it, it appears to the Court that the admission of the evidence would have such an adverse effect on the fairness of the proceedings that the Court ought not to admit it.

(4) On an application to exclude evidence under subsection (3) the Court shall have regard, in particular, to the length of time between the matters to which that evidence relates and the matters which form the subject of the offence charged.

15O. For the purpose of section 15N(1)(c), evidence is important explanatory evidence if—

Important explanatory evidence. [16 of 2009].

- (a) without it, the Court or jury would find it impossible or difficult to understand other evidence in the case; and
- (b) its value in understanding the case as a whole is substantial.

Important matter in issue between the accused and the prosecution. [16 of 2009].

15P. (1) For the purpose of section 15N(1)(d), an important matter in issue between the accused and the prosecution includes—

(a) the question whether the accused has a propensity to commit offences of the kind with which he is charged, except where his having such a propensity makes it no more likely that he is guilty of the offence;

(b) the question whether the accused has a propensity to be untruthful in any respect.

(2) Where subsection (1)(a) applies, an accused person's propensity to commit offences of the kind with which he is charged may, without prejudice to any other way of doing so, be established by evidence that he has been convicted of—

(a) an offence of the same description as the one with which he is charged; or

(b) an offence of the same category as the one with which he is charged.

(3) Subsection (2) does not apply in the case of a particular accused if the Court is satisfied, by reason of the length of time since his conviction or for any other reason that it would be unjust for the section to apply in his case.

(4) For the purpose of subsection (2)—

(a) two offences are of the same description as each other if the statement of the offence in a written charge or indictment would, in each case, be in the same terms;

(b) two offences are of the same category as each other if they belong to the same category of offences.

(5) Only prosecution evidence is admissible under section 15N(1)(d).

Important matter in issue between the accused and a co-accused. [16 of 2009].

15Q. (1) Evidence which is relevant to the question whether the accused has a propensity to be untruthful is admissible under section 15N(1)(e) only if the nature or conduct of the accused's defence is such as to undermine the co-accused's defence.

(2) Only evidence—

- (a) which is to be, or has been, adduced by the co-accused; or
- (b) which a witness is to be invited to give, or has given, in cross-examination by the co-accused,

is admissible under section 15N(1)(e).

15R. (1) For the purpose of section 15N(1)(f)—

- (a) the accused gives a false impression if he is responsible for the making of an express or implied assertion which is apt to give the Court or jury a false or misleading impression about himself; and
- (b) the evidence to correct such an impression is evidence which has probative value.

Evidence to correct a false impression. [16 of 2009].

(2) An accused is treated as being responsible for the making of an assertion if—

- (a) the assertion is made by the accused in the proceedings, whether or not in evidence given by him;
- (b) the assertion was made by the accused—
 - (i) on being questioned under caution, before charge, about the offence with which he is charged; or
 - (ii) on being charged with the offence or officially informed that he may be prosecuted for it,

and evidence of the assertion is given in the proceedings;

- (c) the assertion is made by a witness called by the accused;
- (d) the assertion is made by a witness in cross-examination in response to a question asked by the accused that is intended to elicit the assertion, or is likely to do so; or

(e) the assertion was made by a person out of Court, and the accused adduces evidence of it in the proceedings.

(3) An accused who would otherwise be treated as responsible for the making of an assertion shall not be so treated if, or to the extent that, he withdraws it or disassociates himself from it.

(4) Where it appears to the Court that an accused, by means of his conduct (other than the giving of evidence) in the proceedings, is seeking to give the Court or jury an impression about himself that is false or misleading, the Court may, if it appears just to do so, treat the accused as being responsible for the making of an assertion which is apt to give that impression.

(5) In subsection (4) “conduct” includes appearance or dress.

(6) Evidence is admissible under section 15N(1)(f) only if it goes no further than is necessary to correct the false impression.

(7) Only prosecution evidence is admissible under section 15N(1)(f).

Attack on another person's character. [16 of 2009].

15S. (1) For the purpose of section 15N(1)(g), an accused makes an attack on another person's character where—

- (a) he adduces evidence attacking the other person's character;
- (b) he, or by his attorney-at-law, asks questions in cross-examination that are intended to elicit such evidence, or are likely to do so; or
- (c) evidence is given of an imputation about the other person which is made by the accused—
 - (i) on being questioned under caution, before charge, about the offence with which he is charged; or
 - (ii) on being charged with the offence or officially informed that he might be prosecuted for it.

(2) In subsection (1)—

“evidence attacking the other person’s character” means evidence to the effect that the other person—

- (a) has committed an offence, (whether a different offence from the one with which the accused is charged or the same one); or
- (b) has behaved, or is disposed to behave, in a reprehensible way;

“imputation about the other person” means an assertion to that effect.

(3) Only prosecution evidence is admissible under section 15N(1)(g).

15T. (1) In criminal proceedings before a judge and jury where—

- (a) evidence of an accused’s bad character has been admitted under section 15N(1)(c) to (g); and
- (b) the Court is satisfied at any time after the close of the case for the prosecution that—
 - (i) the evidence is contaminated; and
 - (ii) the contamination is such that, considering the importance of the evidence to the case against the accused, his conviction of the offence would be unsafe,

Stopping the case where evidence is contaminated. [16 of 2009].

the Court may either direct the jury to acquit the accused of the offence or, if it considers that there ought to be a retrial, discharge the jury.

(2) Where—

- (a) a jury is directed under subsection (1) to acquit an accused of an offence; and
- (b) the circumstances are such that, apart from this subsection, the accused could if acquitted of that offence be found guilty of another offence, the accused may not be found guilty of that other

offence if the Court is satisfied that the evidence is contaminated as mentioned in subsection (1)(b).

(3) Where—

- (a) a jury is required to determine under section 66 of the Criminal Procedure Act whether an accused did the act charged;
- (b) evidence of the accused's bad character has been admitted under section 15N(1)(c) to (g); and
- (c) the Court is satisfied at any time after the close of the case for the prosecution that—
- (i) the evidence is contaminated; and
 - (ii) the contamination is such that, considering the importance of the evidence to the case against the accused, a finding that he did the act or made the omission would be unsafe,

Ch. 12:02.

the Court may either direct the jury to acquit the accused of the offence or, if it considers that there ought to be a rehearing, discharge the jury.

(4) This section does not prejudice any other power a Court may have to direct a jury to acquit an accused of an offence or to discharge a jury.

(5) For the purpose of this section a person's evidence is contaminated where—

- (a) as a result of an agreement or understanding between that person and one or more persons; or
- (b) as a result of that person being aware of anything alleged by one or more persons whose evidence may be, or has been, given in the proceedings,

the evidence is false or misleading in any respect, or is different from what it would otherwise have been.

15U. (1) In proceedings for an indictable offence or for the summary trial of an indictable offence, evidence of any previous conviction of the accused for an offence whilst under the age of eighteen is not admissible unless—

Offences committed by accused when a child.
[16 of 2009].

- (a) the conviction was in relation to an indictable offence or the summary trial of an indictable offence; and
 - (b) the Court is satisfied that the interests of justice require the evidence to be admissible.
- (2) Subsection (1) applies in addition to section 15N.

15V. (1) Subject to subsection (2), a reference to the relevance or probative value of evidence is a reference to its relevance or probative value on the assumption that it is true.

Assumption of truth in assessment of relevance or probative value.
[16 of 2009].

(2) In assessing the relevance or probative value of an item of evidence a Court need not assume that the evidence is true if it appears on the basis of any material before the Court, including any evidence it decides to hear on the matter, that no Court or jury could reasonably find the evidence to be true.

15W. (1) Where the Court makes a relevant ruling—

- (a) it shall state in open Court, but in the absence of the jury, its reasons for the ruling; and
- (b) if it is a Magistrates' Court, it shall cause the ruling and the reasons for it to be entered in the register of the Court's proceedings.

Court's duty to give reasons for rulings.
[16 of 2009].

(2) In this section "relevant ruling" means—

- (a) a ruling on whether an item of evidence is evidence of a person's bad character;
- (b) a ruling on whether an item of evidence is admissible under section 15M or 15N; or
- (c) a ruling under section 15T.

15X. Sections 15H, 15I, 15J, 15K, 15L, 15M, 15N, 15O, 15P, 15Q, 15R, 15S, 15T, 15U, 15V and 15W shall not apply to a preliminary enquiry or criminal trial which is in progress on or before 25th January 2010.

Transitional.
[16 of 2009].

PART III

EVIDENCE IN PARTICULAR CASES

Breach of
promise.

16. The parties to any action for breach of promise of marriage are competent to give evidence in such action; but no plaintiff in any action for breach of promise of marriage may recover a verdict unless his or her testimony is corroborated by some other material evidence in support of such promise.

Adultery.

17. The parties to any proceeding instituted in consequence of adultery, and their husbands and wives are competent to give evidence in such proceeding, but no witness in any proceeding, whether a party to the suit or not, shall be liable to be asked or bound to answer any question tending to show that he or she has been guilty of adultery, unless such witness has already given evidence in the same proceeding in disproof of his or her alleged adultery.

Revenue cases.

18. The parties to any information or proceeding in the High Court for the recovery of any penalty for the breach of any law relating to the revenue are competent to give evidence in any such information or proceeding.

Admission in
evidence of
documents
attested to in a
foreign country.
[16 of 1973
2 of 1983
11 of 1996
12 of 1999
19 of 2005
5 of 2012].

19. (1) A document purporting to have affixed, impressed, or subscribed thereon or thereto the seal and signature of any diplomatic agent of Trinidad and Tobago in any foreign country, or any consular officer of Trinidad and Tobago in any foreign place, in testimony of any oath, affidavit, or act administered, taken, or done by or before any such person shall be admitted in evidence in any Court of Trinidad and Tobago without proof of his seal or signature or of his official character.

(1A) Where a document is attested to in a foreign country and purports to have affixed, impressed, or subscribed thereon the seal and signature of a notary public, a commissioner for oaths or where there is no such office any other person duly authorised by statute to administer oaths or to take statutory declarations in that country, such document shall be admitted in any Court in Trinidad and Tobago without proof of the seal or signature or due authorisation and such document shall be as effectual as if administered, taken or done by or before any lawful authority in Trinidad and Tobago.

(2) In any criminal proceeding any document purporting to be a certificate or report under the hand of a Government expert on any matter or thing which has been submitted to him for examination, analysis or report is admissible as evidence of the facts stated in it without proof of the signature or appointment of the Government expert, unless the Court, acting *ex proprio motu* or at the request of a party to the proceeding requires the expert to be called as a witness. The Court is not bound to require the attendance of the expert as a witness if the Court is of opinion that the request for such attendance is made for the purpose of vexation, delay or defeating the ends of justice.

Reports and certificates admissible in evidence in certain circumstances.

(2A) Where medical evidence is contained in a report signed by—

- (a) a District Medical Officer, and the evidence—
 - (i) relates to a fatality; and
 - (ii) is being led in criminal proceedings or in an inquest; or
- (b) a registered medical practitioner and the evidence does not relate to a fatality,

the report shall be admitted as if it were the report of a Government expert within the meaning of this section.

(2B) Where any substance or thing is required to be submitted to a Government expert for examination, analysis or report, that substance or thing can be lawfully received by any person duly authorised by the Director of the Trinidad and Tobago Forensic Science Centre.

(2C) Where a duly authorised person, mentioned in subsection (2B), receives any substance or thing he shall maintain a record stating the date on and time at which and the name and signature of the person from whom he received the substance or thing, and the date on and time at which it was taken and the name and signature of the Government expert who takes it from him for examination, analysis or report.

(2D) Subsections (2B) and (2C) do not in any manner affect the admissibility into evidence of a document referred to in subsection (2A).

(3) In any inquest held by a Coroner any such certificate or report is likewise admissible as evidence of the facts stated in it unless the Coroner requires the expert to be called as a witness.

(4) In this section—

“Government expert” means the following public officers:

- (a) Senior Pathologist;
- (b) Pathologist;
- (c) Government Chemist;
- (d) Armourer;
- *(e) Forensic Document Examiner;
- (f) Forensic Biologist;
- (g) Scientific Examiner (Motor Vehicles);
- (h) a Fingerprint Technician from the Criminal Records Office;
- *(ha) Firearm and Toolmark Examiner;
- (i) the holder of any other office or any other suitably qualified and experienced person declared by the President by Notification published in the *Gazette* to be an officer or person to which this section applies;
- †(j) a Forensic DNA analyst;

“report” includes a post mortem report.

PART IV

EVIDENCE RELATING TO BIRTHS, DEATHS AND MARRIAGES

Certified copies of entries in registers admissible in evidence.

20. (1) A certified copy of an entry in any register of births, deaths, or marriages purporting to bear the signature of the person having legal custody of such register, or of some person legally authorised to sign such copy at the time of its issue, and authenticated as provided below is, in the case of any register kept at any place in Commonwealth countries subject to all just exceptions, *prima facie* evidence for all purposes of the fact of the birth or death or the legal solemnisation of the marriage thereby certified.

*See LN 158/1983 and LN 175/2007.

†See Note on page 3 regarding this amendment by Act No. 5 of 2012.

(2) A certified copy shall bear the signature of a person describing himself as holding some office, benefice, or position entitling him to the custody of the register, or to sign such copy at the time of so certifying, and the authentication of such signature shall be under the hand and seal of a Notary Public, or under the hand of the Registrar General, or Superintendent Registrar of Births and Deaths, or Registrar of Marriages of the Commonwealth country within which such certificate purports to have been issued, or under the hand of a member of the High Court or Supreme Court of such Commonwealth country, or under the seal of a Court of civil jurisdiction in the district in which the certified copy was issued.

Necessary authentication of copies of entries.

(3) At the preliminary examination in respect of or at any trial for any indictable offence, where it becomes necessary either for the prosecution or the defence to establish the fact of any birth, death, or marriage in any Commonwealth country, the person charged, or the wife or husband of the person charged, may give evidence of the identity of any person with any person named in the certificate; but nothing contained in this Act shall be construed to make it compulsory on any person accused, or on his or her wife or husband, to give any such evidence if he or she is unwilling to do so.

Evidence of identity of person named in copy of entry.

(4) A birth, death, or marriage in the United Kingdom and the Republic of Ireland or in Trinidad and Tobago shall, saving all just exceptions, be proved in the manner provided in this section, any written law to the contrary notwithstanding.

Proof of births, etc., in Trinidad and Tobago and in United Kingdom and Republic of Ireland.

PART V

DOCUMENTARY EVIDENCE IN CERTAIN CASES

21. In this Part—

Interpretation.

“Government Printer” means and includes any printer purporting to be the printer authorised to print the Acts and other documents of the Government;

“document” means and includes proclamations, orders, bye-laws, rules, regulations, warrants, circulars, lists, assessment rolls, minutes, certificates, notices, requisitions, letters, decrees,

Second
Schedule.

and all other records and writings whatsoever of a public character pertaining to the several departments of the Government in the first column of the Second Schedule;

“bankers’ books” means and includes ledgers, day books, cash books, account books, and all other books used in the ordinary business of a bank;

“legal proceeding” means any civil or criminal proceeding or enquiry in which evidence is or may be given before any Court of Justice, Judge, Magistrate or Justice, Arbitrator, Commissioner or person or persons authorised by the Supreme Court to take evidence;

“Judge” means a Judge of the Supreme Court, or of a Petty Civil Court;

“bank” and “banker” means and includes—

(a) any person or persons, partnership or company, carrying on the business of bankers in Trinidad and Tobago, or the manager;

(b) any person or persons, partnership or company, who may hereafter carry on the business of bankers in Trinidad and Tobago and who hereafter, under the authority of any Act may establish a banking association in Trinidad and Tobago, or the manager;

Ch. 79:04.

(c) the Post Office Savings Bank established under the Post Office Savings Bank Act. In the case of the said Savings Bank, “banker” means the Postmaster General.

Certified copies
of documents
admissible in
evidence.

22. (1) Every document issued—

(a) by the President;

(b) under the authority of the President;

(c) by or under the authority of any department of the Government or officer mentioned in the first column of the Second Schedule; or

Second
Schedule.

(d) being a record in any such department of the Government,

may be received in evidence in all Courts of Justice, and in all legal proceedings whatsoever, in every case in which the original document would be admissible in evidence in all or any of the following modes:

- (i) by production of a copy of the *Gazette* purporting to contain the document;
- (ii) by production of a copy of the document purporting to be printed by the Government Printer;
- (iii) by production (in the case of any document issued by the President or under the authority of the President) of a copy or extract purporting to be certified by the Minister, Secretary to the Cabinet or any Permanent Secretary; and
- (iv) by production (in the case of any document issued by or under the authority of any of the departments or officer, or being a record in any such department of the Government) of a copy or extract purporting to be certified to be true by the person or persons specified in the second column of the said Second Schedule in connection with such department or officer.

Second
Schedule.

Any copy or extract made in pursuance of this Part may be in print or in writing, or partly in print and partly in writing.

No proof shall be required of the handwriting or official position of any person certifying in pursuance of this Part to the truth of any copy of or extract from any document.

(2) In this section “Minister” means the Minister responsible for the subject matter in respect of which the document was issued and “Permanent Secretary” means the Permanent Secretary to the Minister.

23. No officer of any of the several public departments specified in the first column of the Second Schedule is, in any legal proceedings to which the State or he is not a party,

Officer not
compellable to
appear as
witness unless
party to the suit.
Second
Schedule.

compellable to produce any document the contents of which can be proved under this Act or to appear as a witness to prove the matters, transactions, and things recorded in it unless by order of a Judge made for special cause.

Printing or tendering false document. [45 of 1979].

24. Any person who prints any enactment or document which falsely purports to have been printed by the Government Printer, or by the authority of the legislation or the Government of any Commonwealth territory or tenders in evidence any document which falsely purports to have been so printed knowing that the same was not so printed is liable to imprisonment for five years.

Saving former rights.

25. Section 22 shall be deemed to be in addition to and not in derogation of any powers of proving documents given by any Act or law for the time being in force in Trinidad and Tobago.

Mode of proof of entry in banker's books.

26. Subject to this Act, a copy of any entry in a banker's book shall, in all legal proceedings be received as *prima facie* evidence of such entry, and of the matters, transactions, and accounts therein recorded.

Proof that book is a banker's book.

27. (1) A copy of an entry in a banker's book shall not be received in evidence under this Act unless it is first proved that the book was, at the time of the making of the entry, one of the ordinary books of the bank, and that the entry was made in the usual and ordinary course of business, and that the book is in the custody or control of the bank.

(2) Such proof may be given by the manager or accountant of the bank, and in the case of the Post Office Savings Bank by the Postmaster General or any person authorised by him.

(3) Such proof may be given orally, or by affidavit sworn, or statutory declaration made, before any Commissioner or person authorised to take affidavits or statutory declarations.

Verification of copy.

28. A copy of an entry in a banker's book shall not be received in evidence under this Act unless it be further proved

that the copy has been examined with the original entry and is correct; such proof shall be given by some person who has examined the copy with the original entry, and may be given either orally, or by an affidavit sworn, or statutory declaration made, before any Commissioner or person authorised to take affidavits or statutory declarations.

29. The manager or accountant of a bank, and in the case of the Post Office Savings Bank the Postmaster General and any person employed in connection with the Post Office Savings Bank, are not, in any legal proceeding to which the bank is not a party, compellable to produce any banker's book, the contents of which can be proved under this Act or to appear as a witness to prove the matters, transactions, and accounts recorded in it, unless by order of a Judge made for special cause.

When banker not compellable to produce book, etc.

30. On the application of any party to a legal proceeding, a Court or Judge may order that the party be at liberty to inspect and take copies of any entries in a banker's book for any of the purposes of the proceedings. An order under this section may be made either with or without summoning the bank or any other party, and shall be served on the bank three clear days, exclusive of Sundays and public holidays, before it is to be obeyed, unless the Court or Judge otherwise directs.

Court or Judge may order inspection, etc.

31. (1) There shall be paid to and taken by the officers of the departments in the Second Schedule mentioned, except the Registrar General's department, the following fees, that is to say:

Fees to be paid. Second Schedule. [6 of 1993 3 of 1994].

	\$	¢.
For every copy of any document, for every		
90 words	0	12
For a certificate of correctness of such copy...	10	00

All fees under this Act shall be paid to the Comptroller of Accounts.

(2) There shall be paid to the Commissioner of Police for information relating to a road traffic accident a fee of fifty dollars.

Third Schedule. (3) The fees specified in the Third Schedule shall be paid by private clients in respect of services provided by the Trinidad and Tobago Forensic Science Centre.

(4) The Minister may by Order amend the Third Schedule.

Proof of instrument as to validity of which attestation is necessary. [16 of 1973]. **32.** (1) In any proceeding, whether civil or criminal, an instrument as to the validity of which attestation is requisite may, instead of being proved by an attesting witness be proved in the manner in which it might be proved if no attesting witness were alive.

(2) In this section “proceedings” includes an arbitration or reference whether under any written law or not.

(3) Nothing in this section shall apply to the proof of Wills or other testamentary documents.

Presumption as to document twenty years old. [16 of 1973]. **33.** In any proceedings, whether civil or criminal, there shall, in the case of documents proved, or purporting, to be not less than twenty years old be made any presumption which immediately before 1st September 1938 would have been made in the case of a document of like character proved, or purporting, to be not less than thirty years old.

Saving. [16 of 1973]. **34.** Nothing in section 32 or 33 shall prejudice the admissibility of any evidence which would, apart from the provisions of those sections, be admissible.

PART VI

EVIDENCE IN CIVIL PROCEEDINGS

Interpretation. [16 of 1973]. **35.** (1) In this Part—
“civil proceedings” includes, in addition to civil proceedings in any of the ordinary Courts of Law—

(a) civil proceedings before any other tribunal, being proceedings in relation to which the strict rules of evidence apply; and

(b) an arbitration or reference, whether under a written law or not,

but does not include civil proceedings in relation to which the strict rules of evidence do not apply;

“computer” has the meaning assigned by section 40;

“Court” does not include a Court-martial, and, in relation to an arbitration or reference, means the arbitrator or umpire and, in relation to proceedings before a tribunal (not being one of the ordinary Courts of law), means the tribunal;

“document” includes, in addition to a document in writing—

- (a) any map, plan, graph or drawing;
- (b) any photograph;
- (c) any disc, tape, sound track or other device in which sounds or other data, not being visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom; and
- (d) any film, negative, tape or other device in which one or more visual images are embodied so as to be capable (as mentioned above) of being reproduced therefrom;

“film” includes a microfilm;

“legal proceedings” includes an arbitration or reference, whether under a written law or not;

“statement” includes any representation of fact, whether made in words or otherwise.

(2) In this Part any reference to a copy of a document includes—

- (a) in the case of a document falling within paragraph (c) but not (d) of the definition of “document” in subsection (1), a transcript of the sounds or other data embodied therein;
- (b) in the case of a document falling within paragraph (d) but not (c) of that definition, a reproduction or still reproduction of the image or images embodied therein, whether enlarged or not;
- (c) in the case of a document falling within both those paragraphs, such a transcript together with such a still reproduction; and

(d) in the case of a document not falling within the said paragraph (d) of which a visual image is embodied in a document falling within that paragraph, a reproduction of that image, whether enlarged or not,

and any reference to a copy of the material part of a document shall be construed accordingly.

Ch. 4:01.

(3) For the purposes of the application of this Part in relation to any such civil proceedings as are mentioned in subsection (1), any Rules of Court made for the purposes of this Act under sections 77 and 78 of the Supreme Court of Judicature Act, shall (except in so far as their operation is excluded by agreement) apply, subject to such modifications as may be appropriate, in like manner as they apply in relation to civil proceedings in the High Court of Justice.

(4) If any question arises as to what are, for the purposes of any such civil proceedings as are mentioned in subsection (1), the appropriate modifications of any such rule of Court as is mentioned in subsection (3), that question shall, in default of agreement, be determined by the tribunal or the arbitrator or umpire, as the case may be.

(5) Any reference in this Part to any other written law includes a reference thereto as applied, by or under any other written law.

(6) Nothing in this Part prejudices the operation of any written law which provides (in whatever words) that any answer or evidence given by a person in specified circumstances is not admissible in evidence against him or some other person in any proceedings or class of proceedings (however described).

(7) In subsection (6) the reference to giving evidence is a reference to giving evidence in any manner, whether by furnishing information, making discovery, producing documents or otherwise.

(8) Nothing in this Part prejudices—

- (a) any power of a Court, in any legal proceeding, to exclude evidence (whether by preventing questions from being put or otherwise) at its discretion; or
- (b) the operation of any agreement (whenever made) between the parties to any legal proceedings as to the evidence which is to be admissible (whether generally or for any particular purpose) in those proceedings.

(9) Where, by reason of any defect of speech or hearing from which he is suffering, a person called as a witness in any legal proceeding gives his evidence in writing or by signs, that evidence is to be treated for the purposes of this Part as being given orally.

36. (1) In any civil proceedings a statement other than one made by a person while giving oral evidence in those proceedings is admissible as evidence of any fact stated therein to the extent that it is so admissible by virtue of any provision of this Part or by virtue of any other statutory provision or by agreement of the parties, but not otherwise.

Hearsay evidence to be admissible only by virtue of this Act and other statutory provisions, or by agreement.
[16 of 1973].

(2) In this section “statutory provision” means any provision contained in, or in an instrument made under, this or any other Act including any Act passed after the commencement of the Evidence (Amendment) Act 1973 (that is, 15th November 1973).

37. (1) In any civil proceedings a statement made, whether orally or in a document or otherwise, by any person, whether called as a witness in those proceedings or not, shall, subject to this section and to Rules of Court, be admissible as evidence of any fact stated therein of which direct oral evidence by him would be admissible.

Admissibility of out-of-Court statements as evidence of facts stated.
[16 of 1973].

(2) Where in any civil proceedings a party desiring to give a statement in evidence by virtue of this section has called or intends to call as a witness in the proceedings the person by whom the statement was made, the statement—

- (a) shall not be given in evidence by virtue of this section on behalf of that party without the leave of the Court; and
- (b) without prejudice to paragraph (a), shall not be given in evidence by virtue of this section on behalf of that party before the conclusion of the examination-in-chief of the person by whom it was made, except—
 - (i) where before that person is called the Court allows evidence of the making of the statement to be given on behalf of that party by some other person; or
 - (ii) in so far as the Court allows the person by whom the statement was made to narrate it in the course of his examination-in-chief on the ground that to prevent him from doing so would adversely affect the intelligibility of his evidence.

(3) Where in any civil proceedings a statement which was made otherwise than in a document is admissible by virtue of this section, no evidence other than direct oral evidence by the person who made the statement or any person who heard or otherwise perceived it being made shall be admissible for the purpose of proving it, but so however, that if the statement in question was made by a person while giving oral evidence in some other legal proceedings (whether civil or criminal), it may be proved in any manner authorised by the Court.

Witness's
previous
statement, if
proved, to be
evidence of
facts stated.
[16 of 1973
2 of 1983].

38. (1) Where in any civil proceedings—

- (a) a previous inconsistent or contradictory statement made by a person called as a witness in those proceedings is proved by virtue of section 5, 6 or 7;

(b) a previous statement made by a person called as aforesaid is proved for the purpose of rebutting a suggestion that his evidence has been fabricated, that statement shall by virtue of this subsection be admissible as evidence of any fact stated therein of which direct oral evidence by him would be admissible.

(2) Nothing in this Part shall affect any of the rules of law relating to the circumstances in which, where a person called as a witness in any civil proceedings is cross-examined on a document used by him to refresh his memory, that document may be made evidence in those proceedings; and where a document or any part of a document is received in evidence in any such proceedings by virtue of any such rule of law, any statement made in that document or part by the person using the document to refresh his memory shall by virtue of this subsection be admissible as evidence of any fact stated therein of which direct oral evidence by him would be admissible.

39. (1) Without prejudice to section 40, in any civil proceedings a statement contained in a document shall, subject to this section and to Rules of Court, be admissible as evidence of any fact stated therein of which direct oral evidence would be admissible, if the document is, or forms part of, a record compiled by a person acting under a duty from information which was supplied by a person (whether acting under a duty or not) who had, or may reasonably be supposed to have had, personal knowledge of the matters dealt with in that information and which, if not supplied by that person to the compiler of the record, directly, was supplied by him to the compiler, of the record indirectly through one or more intermediaries, each acting under a duty.

Admissibility of certain records as evidence of facts stated. [16 of 1973].

(2) Where in any civil proceedings a party desiring to give a statement in evidence by virtue of this section has called or intends to call as a witness in the proceedings the person who originally supplied the information from which the record containing the statement was compiled, the statement—

(a) shall not be given in evidence by virtue of this section on behalf of that party without the leave of the Court; and

(b) without prejudice to paragraph (a), shall not, without the leave of the Court, be given in evidence by virtue of this section on behalf of that party before the conclusion of the examination-in-chief of the person who originally supplied the said information.

(3) Any reference in this section to a person acting under a duty includes a reference to a person acting in the course of any trade, business, profession or other occupation in which he is engaged or employed or for the purposes of any paid or unpaid office held by him.

Admissibility
of statements
produced by
computers.
[16 of 1973].

40. (1) In any civil proceedings a statement contained in a document produced by a computer shall, subject to Rules of Court, be admissible as evidence of any fact stated therein of which direct oral evidence would be admissible, if it is shown that the conditions mentioned in subsection (2) are satisfied in relation to the statement and computer in question.

(2) The said conditions are—

- (a) that the document containing the statement was produced by the computer during a period over which the computer was used regularly to store or process information for the purposes of any activities regularly carried on over that period, whether for profit or not, by any body, whether corporate or not, or by any individual;
- (b) that over that period there was regularly supplied to the computer in the ordinary course of those activities information of the kind contained in the statement or of the kind from which the information so contained in the statement or of the kind from which the information so contained is derived;
- (c) that throughout the material part of that period the computer was operating properly or, if not, that any respect in which it was not operating

properly or was out of operation during that part of that period was not such as to affect the production of the document or the accuracy of its contents; and

- (d) that the information contained in the statement reproduces or is derived from information supplied to the computer in the ordinary course of those activities.

(3) Where over a period the function of storing or processing information for the purposes of any activities regularly carried on over that period as mentioned in subsection (2)(a) was regularly performed by computers, whether—

- (a) by a combination of computers operating over that period;
- (b) by different computers operating in succession over that period;
- (c) by different combinations of computers operating in succession over that period; or
- (d) in any other manner involving the successive operation over that period, in whatever order, of one or more computers and one or more combinations of computers,

all the computers used for that purpose during that period shall be treated for the purposes of this Part as constituting a single computer; and references in this Part to a computer shall be construed accordingly.

(4) In any civil proceedings where it is desired to give a statement in evidence by virtue of this section, a certificate doing any of the following things, that is to say—

- (a) identifying the document containing the statement and describing the manner in which it was produced;
- (b) giving such particulars of any device involved in the production of that document as may be appropriate for the purpose of showing that the document was produced by a computer;

(c) dealing with any of the matters to which the conditions mentioned in subsection (2) relate, and purporting to be signed by a person occupying a responsible position in relation to the operation of the relevant device or the management of the relevant activities (whichever is appropriate) shall be evidence of any matter stated in the certificate; and for the purposes of this subsection it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

(5) For the purposes of this Part—

- (a) information shall be taken to be supplied to a computer if it is supplied thereto in any appropriate form and whether it is so supplied directly or (with or without human intervention) by means of any appropriate equipment;
- (b) where, in the course of activities carried on by any individual or body, information is supplied with a view to its being stored or processed for the purposes of those activities by a computer operated otherwise than in the course of those activities, that information if duly supplied to that computer, shall be taken to be supplied to it in the course of those activities;
- (c) a document shall be taken to have been produced by a computer whether it was produced by it directly or (with or without human intervention) by means of any appropriate equipment.

(6) Subject to subsection (3) in this Part “computer” means any device for storing and processing information, and any reference to information being derived from other information is a reference to its being derived therefrom by calculation, comparison or any other process.

Provisions
supplementary
to sections 37
to 40.
[16 of 1973].

41. (1) Without prejudice to the generality of section 22, where in any civil proceedings a statement contained in a document is proposed to be given in evidence by virtue of

section 37, 39 or 40 it may, subject to any Rules of Court, be proved by the production of that document or (whether or not that document is still in existence) by the production of a copy of that document, or of the material part thereof, authenticated in such manner as the Court may approve.

(2) For the purpose of deciding whether or not a statement is admissible in evidence by virtue of section 37, 39 or 40 the Court may draw any reasonable inference from the circumstances in which the statement was made or otherwise came into being or from any other circumstances, including, in the case of a statement contained in a document the form and contents of that document.

(3) In estimating the weight, if any, to be attached to a statement admissible in evidence by virtue of section 37, 38, 39 or 40 regard shall be had to all the circumstances from which any inference can reasonably be drawn as to the accuracy or otherwise of the statement and, in particular—

- (a) in the case of a statement falling within section 37(1) or 38(1) or (2), to the question whether or not the statement was made contemporaneously with the occurrence or existence of the facts stated, and to the question whether or not the maker of the statement had any incentive to conceal or misrepresent the facts;
- (b) in the case of a statement falling within section 39(1), to the question whether or not the person who originally supplied the information from which the record containing the statement was compiled did so contemporaneously with the occurrence or existence of the facts dealt with in that information, and to the question whether or not that person, or any person concerned with compiling or keeping the record containing the statement, had any incentive to conceal or misrepresent the facts; and
- (c) in the case of a statement falling within section 40(1) to the question whether or not the information which the information contained in the

statement reproduces or is derived from was supplied to the relevant computer, or recorded for the purpose of being supplied thereto, contemporaneously with the occurrence or existence of the facts dealt with in that information, and to the question whether or not any person concerned with the supply of information to that computer, or with the operation of that computer or any equipment by means of which the document containing the statement was produced by it, had any incentive to conceal or misrepresent the facts.

(4) For the purpose of any written law or rule of law or practice requiring evidence to be corroborated or regulating the manner in which uncorroborated evidence is to be treated—

- (a) a statement which is admissible in evidence by virtue of section 37 or 38 shall not be capable of corroborating evidence given by the maker of the statement; and
- (b) a statement which is admissible in evidence by virtue of section 8 shall not be capable of corroborating evidence given by the person who originally supplied the information from which the record containing the statement was compiled.

(5) Any person who, in a certificate tendered in evidence in civil proceedings by virtue of section 40(4), wilfully makes a statement material in those proceedings which he knows to be false or does not believe to be true is liable on conviction on indictment to a fine and to imprisonment for two years.

Admissibility of evidence as to credibility of maker, etc., of statement admitted under section 37 or 39. [16 of 1973].

42. (1) Subject to Rules of Court, where in any civil proceedings a statement made by a person who is not called as a witness in those proceedings is given in evidence by virtue of section 37—

- (a) any evidence which, if that person had been so called, would be admissible for the purpose of destroying or supporting his credibility as a witness shall be admissible for that purpose in those proceedings; and

(b) evidence tending to prove that, whether before or after he made that statement, that person made (whether orally or in a document or otherwise) another statement inconsistent therewith shall be admissible for the purpose of showing that that person has contradicted himself.

(2) Nothing in subsection (1) shall enable evidence to be given of any matter of which, if the person in question had been called as a witness and had denied that matter in cross-examination, evidence could not have been adduced by the cross-examining party.

(3) Subsection (1) shall apply in relation to a statement given in evidence by virtue of section 39 as it applies in relation to a statement given in evidence by virtue of section 37, except that references to the person who made the statement and to his making the statement shall be construed, respectively, as references to the person who originally supplied the information from which the record containing the statement was compiled and to his supplying that information.

(4) Section 38(1) shall apply to any statement proved by virtue of subsection (1)(b) as it applies to a previous inconsistent or contradictory statement made by a person called as a witness which is proved as mentioned in paragraph (a) of the said section 38(1).

43. (1) Provision shall be made by Rules of Court as to the procedure which, subject to any exceptions provided for in the Rules, must be followed and the other conditions which, subject as aforesaid, must be fulfilled before a statement can be given in evidence in civil proceedings by virtue of section 37, 39 or 40.

Rules of Court.
[16 of 1973].

(2) Rules of Court made in pursuance of subsection (1) shall in particular, subject to such exceptions (if any) as may be provided for in the Rules—

(a) require a party to any civil proceedings who desires to give in evidence any such statement as is mentioned in that subsection to give to

every other party to the proceedings such notice of his desire to do so and such particulars of or relating to the statement as may be specified in the Rules, including particulars of such one or more of the persons connected with the making or recording of the statement or, in the case of a statement falling within section 37(1), such one or more of the persons concerned as mentioned in section 41(3)(c) as the Rules may in any case require; and

- (b) enable any party who receives such notice as aforesaid by counter-notice to require any person of whom particulars were given with the notice to be called as a witness in the proceedings; unless that person is dead, or beyond the seas, or unfit by reason of his bodily or mental condition to attend as a witness, or cannot with reasonable diligence be identified or found, or cannot reasonably be expected (having regard to the time which has elapsed since he was connected or concerned as aforesaid and to all the circumstances) to have any recollection of matters relevant to the accuracy or otherwise of the statement.
- (3) Rules of Court made in pursuance of subsection (1)—
- (a) may confer on the Court in any civil proceedings a discretion to allow a statement falling within section 37(1), 39(1) or 40(1) to be given in evidence notwithstanding that any requirement of the rules affecting the admissibility of that statement has not been complied with; except in pursuance of paragraph (b), Rules of Court may not confer on the Court a discretion to exclude such a statement where the requirements of the rules affecting its admissibility have been complied with;

- (b) may confer on the Court power, where a party to any civil proceedings has given notice that he desires to give in evidence—
- (i) a statement falling within section 37(1) that was made by a person, whether orally or in a document, in the course of giving evidence in some other legal proceedings (whether civil or criminal); or
 - (ii) a statement falling within section 39(1) that is contained in a record of any direct oral evidence given in some other legal proceedings (whether civil or criminal), to give directions on the application of any party to the proceedings as to whether, and if so on what conditions, the party desiring to give the statement in evidence will be permitted to do so (where applicable) as to the manner in which that statement and any other evidence given in those other proceedings is to be proved; and
- (c) may make different provision for different circumstances, and in particular may make different provisions with respect to statements falling within sections 37(1), 39(1) and 40(1), respectively,

and any discretion conferred on the Court by Rules of Court made in accordance with this section may be either a general discretion or a discretion exercisable only in such circumstances as may be specified in the Rules.

(4) Rules of Court may make provision for preventing a party to any civil proceedings (subject to any exceptions provided for in the Rules) from adducing in relation to a person who is not called as a witness in those proceedings any evidence that could otherwise be adduced by him by virtue of section 42, unless that party has in pursuance of the Rules given in respect of that person such a counter-notice as is mentioned in subsection (2)(b).

(5) In deciding for the purposes of any Rules of Court made in pursuance of this section whether or not a person is fit to attend as a witness, a Court may act on a certificate purporting to be a certificate of a registered medical practitioner.

Ch. 4:01.

(6) Nothing in the foregoing provisions of this section shall prejudice the generality of section 76 of the Supreme Court of Judicature Act, or any other written law conferring power to make Rules of Court; and nothing in any enactment restricting the matters with respect to which Rules of Court may be made shall prejudice the making of Rules of Court with respect to any matter mentioned in the foregoing provisions of this section or the operation of any Rules of Court made with respect to any such matter.

Admissibility of certain hearsay evidence formerly admissible at common law. [16 of 1973].

44. (1) In any civil proceedings a statement which, if this Part had not been passed, would by virtue of any rule of law mentioned in subsection (2) have been admissible as evidence of any fact stated therein shall be admissible as evidence of that fact by virtue of this subsection.

(2) The rules of law referred to in subsection (1) are the following, that is to say any rule of law:

- (a) whereby in any civil proceedings an admission adverse to a party to the proceedings, whether made by that party or by another person, may be given in evidence against that party for the purpose of proving any fact stated in the admission;
- (b) whereby in any civil proceedings published works dealing with matters of a public nature (for example, histories, scientific works, dictionaries and maps) are admissible as evidence of facts of a public nature stated therein;
- (c) whereby in any civil proceedings public documents (for example, public registers, and returns made under public authority with respect to matters of public interest) are admissible as evidence of facts stated therein; or

- (d) whereby in any civil proceedings records (for example, the records of certain Courts, treaties, State grants, pardons and commissions) are admissible as evidence of facts stated therein.

In this subsection “admission” includes any representation of fact, whether made in words or otherwise.

(3) In any civil proceedings a statement which tends to establish reputation or family tradition with respect to any matter and which, if this Part had not been passed, would have been admissible in evidence by virtue of any rule of law mentioned in subsection (4)—

- (a) shall be admissible in evidence by virtue of this paragraph in so far as it is not capable of being rendered admissible under section 37 or 39; and
(b) if given in evidence under this Act (whether by virtue of paragraph (a) or otherwise) shall by virtue of this paragraph be admissible as evidence of the matter reputed or handed down,

and, without prejudice to paragraph (b), reputation shall for the purposes of this Act be treated as a fact and not as a statement or multiplicity of statements dealing with the matter reputed.

(4) The rules of law referred to in subsection (3) are the following, that is to say any rule of law:

- (a) whereby in any civil proceedings evidence of a person’s reputation is admissible for the purpose of establishing his good or bad character;
(b) whereby in any civil proceedings involving a question of pedigree or in which the existence of a marriage is in issue, evidence of reputation or family tradition is admissible for the purpose of proving or disproving pedigree or the existence of the marriage, as the case may be; or
(c) whereby in any civil proceedings evidence of reputation or family tradition is admissible for the purpose of proving or disproving the existence of any public or general right or of identifying any person or thing.

(5) It is hereby declared that in so far as any statement is admissible in any civil proceedings by virtue of subsection (1) or (3)(a), it may be given in evidence of those proceedings notwithstanding anything in sections 37 to 42 or in any Rules of Court made in pursuance of section 43.

(6) The words in which any rules of law mentioned in subsection (2) or (4) is there described are intended only to identify the rule in question and shall not be construed as altering that rule in any way.

Findings of adultery and paternity as evidence in civil proceedings. [16 of 1973].

45. (1) In any civil proceedings—

- (a) the fact that a person has been found guilty of, or to have committed, adultery in any matrimonial proceedings; and
- (b) the fact that a person has been adjudged to be the father of a child in affiliation proceedings before any Court in Trinidad and Tobago,

shall [subject to subsection (3)] be admissible in evidence for the purpose of proving, where to do so is relevant to any issue in those civil proceedings, that he committed the adultery to which the finding relates, or, as the case may be, is (or was) the father of that child, whether or not he offered any defence to the allegation of adultery or paternity and whether or not he is a party to the civil proceedings; but no finding or adjudication other than a subsisting one shall be admissible in evidence by virtue of this section.

(2) In any civil proceedings in which by virtue of this section a person is proved to have been found guilty of, or to have committed, adultery as mentioned in subsection (1)(a) or to have been adjudged to be the father of a child as mentioned in subsection (1)(b)—

- (a) he shall be taken to have committed the adultery to which the finding relates or, as the case may be, to be (or have been) the father of that child, unless the contrary is proved; and

(b) without prejudice to the reception of any other admissible evidence for the purpose of identifying the facts on which the finding or adjudication was based, the contents of any document which was before the Court or which contains any pronouncement of the Court, in the matrimonial or affiliation proceedings in question shall be admissible in evidence for that purpose.

(3) Nothing in this section shall prejudice the operation of any enactment whereby a finding of fact in any matrimonial or affiliation proceedings is for the purposes of any other proceedings made conclusive evidence of any fact.

46. (1) The following rules of law are hereby abrogated except in relation to criminal proceedings, that is to say:

Abolition of certain privileges. [16 of 1973 28 of 1996].

(a) the rule whereby, in any legal proceedings, a person cannot be compelled to answer any question or produce any document or thing if to do so would tend to expose him to a forfeiture; and

(b) the rule whereby, in any legal proceedings, a person other than a party to the proceedings cannot be compelled to produce any Deed or other document relating to his title to any land.

(2) The rule of law whereby, in any civil proceedings, a party to the proceedings cannot be compelled to produce any document relating solely to his own case and in no way tending to impeach that case or support the case of any opposing party is hereby abrogated.

47. This Act binds the State.

Act binds the State.

LAWS OF TRINIDAD AND TOBAGO

MINISTRY OF THE ATTORNEY GENERAL AND LEGAL AFFAIRS

www.legalaffairs.gov.tt

58

Chap. 7:02

Evidence

PART VII

GENERAL AND MISCELLANEOUS

FIRST SCHEDULE

(Repealed by Act No. 28 of 1996).

SECOND SCHEDULE

Sections 22, 23.
[16 of 1973
11 of 1996].

COLUMN I <i>Name of Ministry, Department or Office</i>	COLUMN II <i>Name of title of Office or Certifying Officers</i>
All Ministries	Permanent Secretary of each Ministry
Ministry of Agriculture, Lands and Fisheries	Sub-Intendant Director of Surveys
Ministry of Education...	Chief Education Officer
Ministry of Finance (Customs and Excise Department)	Comptroller of Customs and Excise Customs and Excise Supervisor (Tobago)
(Inland Revenue Department)...	Commissioner of Inland Revenue Revenue Officer (Tobago)
Ministry of Health and Housing (Medical Department)	Chief Medical Officer Principal Medical Officer
Ministry of Legal Affairs	Solicitor-General Chief Parliamentary Counsel Chief State Solicitor
(Registrar General Department) ...	Registrar General Deputy Registrar General Delegate of the Registrar General (Tobago)
Judiciary/Magistracy	Clerk of the Peace of each Summary Court
Ministry of National Security (Immigration)	Chief Immigration Officer
(Police Department)	Commissioner of Police Deputy Commissioner of Police
(Prison Department)	Commissioner of Prisons Deputy Commissioner of Prisons
Personnel Department...	Chief Personnel Officer
Ministry of Petroleum and Mines	Chief Petroleum Engineer
Ministry of Public Utilities (Post Office Department)	Postmaster General General Postal Supervisor (Tobago)
Port Authority	General Manager Harbour Master
Registrar of Friendly Societies...	Registrar of Friendly Societies
Service Commissions Department	Director of Personnel Administration
Ministry of Works	Transport Commissioner Licensing Officer (Tobago).

UNOFFICIAL VERSION

UPDATED TO 31ST DECEMBER 2016

THIRD SCHEDULE

**TRINIDAD AND TOBAGO FORENSIC SCIENCE CENTRE
MINISTRY OF NATIONAL SECURITY**

Section 31(3).
[6 of 1993
3 of 1994].

SCALE OF FEES

BIOLOGY

	\$	¢.
Grouping of blood in one system	30.00	per sample
Grouping of blood in two or three systems	90.00	do.
Grouping of blood in four or more systems (Paternity)	200.00	do.
Identification of species of blood... ..	40.00	do.
Identification of fibres and hairs	100.00	do.
Identification of spermatozoa and semen	35.00	do.
Examination for trace biological evidence	150.00	do.

CHEMISTRY

Arson—Petroleum Products Identification	70.00	per sample
Arson—Other substances	80.00	do.
Corrosive substances identification	60.00	do.
Erased Numbers restoration—automobile engine	200.00	do.
Erased Numbers restoration—automobile chassis	200.00	do.
Erased Numbers restoration—other	100.00	do.
Examination of motor vehicle to determine if engine and chassis numbers are original	60.00	do.
Glass comparisons	80.00	do.
Soil comparisons	80.00	do.
Paint comparisons	100.00	do.
Analysis of explosive residues	150.00	do.
Examination of burnt building	200.00	do.
Examination of burnt vehicle	200.00	do.

**NARCOTIC AND PSYCHOTROPIC
DRUG IDENTIFICATION**

Cannabis	60.00	per sample
Cocaine	80.00	do.
Other Drugs	80.00	do.

LAWS OF TRINIDAD AND TOBAGO

MINISTRY OF THE ATTORNEY GENERAL AND LEGAL AFFAIRS

www.legalaffairs.gov.tt

SCALE OF FEES—continued

PRECIOUS METAL IDENTIFICATION

	\$	¢.
Gold	100.00	per sample
Silver	100.00	do.
Other	150.00	do.

DOCUMENT EXAMINATION

Chemical analysis of inks	100.00–200.00	per sample
Chemical analysis of paper	100.00–200.00	do.
Decipherment of damaged, charred, water soaked, etc., document	100.00–200.00	do.
Decipherment of erasures/obliterations	100.00–200.00	do.
Identification of typewriting	100.00–200.00	do.
Decipherment of indented writing	100.00–200.00	do.
Identification of handwriting/hand-printing	100.00–200.00	do.

FIREARMS

Cleaning, etc., of fouled and rusted articles	50.00–70.00	per sample
Determining whether safe and functional	40.00	per sample
Determining if bullet or cartridge case fired from gun	60.00	do.
Determining whether round is live	30.00	do.
Determining trigger pull	30.00	do.

TOXICOLOGY

Alcohol determination in body fluids	100.00	per sample
Determination of organophosphate, chlorinated hydrocarbon or paraquat	225.00	do.
Other pesticide/weedicide	225.00	do.
Pesticide Screen	225.00	do.
Pesticide/Drug Screen	225.00	do.
Determination of Acidic Drug	225.00	do.
Determination of Basic Drug	225.00	do.
Determination of other drug	225.00	do.
Drug Screen	225.00	do.
Determination of Cyanide... ..	75.00	do.

UNOFFICIAL VERSION

UPDATED TO 31ST DECEMBER 2016

	\$	¢.
Determination of metallic poisons	75.00	per sample
Carbon Monoxide	75.00	do.
Solvents	75.00	do.
Other Vapours	75.00	do.
Heavy Metals/Drugs/Pesticide Screen	300.00	do.
Quantification of toxic agent	400.00	do.

PATHOLOGY

Post Mortem Examination 1,000.00 per sample

SERVICES PROVIDED TO PRIVATE CLIENTS

Lectures by staff of the Forensic Science Centre	200.00 per hour and an additional proportionate sum for time in excess	per sample
Proof of death certificates for insurance companies	40.00 to be paid the Specialist Medical Officer and 60.00 to be paid into the Consolidated Fund	do.
Copy of report	an amount equivalent to the entire fee chargeable for the analysis or examination performed	do.
Recovery of expenses for performing examinations away from the Forensic Science Centre	an amount equivalent to the cost of travelling and subsistence where appropriate	do.

Miscellaneous analyses or those involving unusually large numbers of samples or unusual complexities would be charged for by the Director, Trinidad and Tobago Forensic Science Centre at his discretion.

SUBSIDIARY LEGISLATION

AUDIO VISUAL RECORDING RULES

ARRANGEMENT OF RULES

RULE

1. Citation.
2. Application.
3. General.
4. Recording requirements.
5. Commencement of recording.
6. Statements from witnesses with disability.
7. Stopping the recording.
8. Objections and complaints by the witness.
9. Changing the recording media.
10. Taking a break during the recording.
11. Failure of recording equipment.
12. Removing recording media from recording equipment.
13. Conclusion of recording.
14. Master copy security.
15. Working copy security.
16. Breaking master copy seal for criminal proceedings.
17. Breaking master copy seal for other cases.
18. Documentation.

SCHEDULE.

AUDIO VISUAL RECORDING RULES

108/2010.

made under section 14E

1. These Rules may be cited as the Audio Visual Recording Rules. Citation.

2. (1) These Rules shall apply when a law enforcement agent makes a visual recording with sound of the statement of a witness. Application.

(2) There is no statutory requirement to visually record the statement of a witness.

3. (1) Nothing in these Rules shall be taken as derogating from the law and practice which governs the detention, treatment and questioning of persons by law enforcement agents. General.

(2) A reference in these Rules to visual recording shall be taken to mean visual recording with audio.

(3) In these Rules a reference to—
“law enforcement agent” means a member of a law enforcement agency;
“law enforcement agency” means an agency listed in the Schedule;
“master copy” means one of the audio visual recording media used to record the statement of the witness and which is recorded simultaneously with other similar recording media in the presence of the witness;
“recording media” includes any removable, physical audio recording medium (such as magnetic tape, optical disc or solid state memory) which can be played and copied;
“working copy” means one of the audio visual recording media, other than the master copy, used to record the statement of the witness and which is recorded simultaneously with the master copy in the presence of the witness and includes a copy made in accordance with rule 16 or 17.

Recording requirements.

4. (1) The camera(s) shall be placed in the room or area where the statement is being recorded so as to ensure maximum coverage of the room or area during the recording of the statement.

(2) The recording medium shall be new and previously unused.

(3) When a statement of a witness is being recorded it shall be done in the presence of at least two law enforcement agents.

(4) When the recording medium is placed in the recorder and switched on to record, the correct date and time, in hours, minutes and seconds, shall be superimposed automatically, second by second, during the whole recording.

Commencement of recording.

5. (1) A statement of a witness shall be voluntary.

(2) Where the witness has agreed to give a voluntary statement, the law enforcement agent conducting the recording shall, without delay and in the presence and sight of the witness—

- (a) remove the recording media from the manufacturer's sealed packaging;
- (b) load the recording equipment; and
- (c) set it to record.

(3) At the commencement of the recording, the law enforcement agent conducting the recording shall—

- (a) without delay, inform the witness that he is not obligated to give a statement;
- (b) then inform the witness formally about the visual recording by—
 - (i) explaining that the statement of the witness is being visually recorded;
 - (ii) giving his name and rank or other form of identification, as the case may be, and that of any other law enforcement agent present in the room or area;

- (iii) asking the witness and any other party present (for example, his attorney-at-law) to identify themselves;
- (iv) stating the date, time of commencement and place of the recording of the statement; and
- (v) informing the witness about what may happen to the recording.

6. The recording procedure shall be adapted as appropriate where the witness is hearing impaired, speech impaired, or English is not his language, and the witness shall communicate in his normal mode.

Statements from witnesses with disability.

7. (1) Where during the course of a recording, the witness makes any self-incriminating statement, the law enforcement agent conducting the recording shall immediately caution him and where the witness elects not to continue the statement, stop the recording.

Stopping the recording.

(2) Where the witness elects to continue the statement after having been cautioned, the recording shall continue.

(3) Where the recording is stopped under subrule (1), one of the recording media shall be sealed as the master copy and any other recorded copies may be used as working copies for the investigation of any indictable offence.

(4) The master copy mentioned in subrule (3) shall be used in the prosecution of any indictable offence or the summary trial of any indictable offence only with leave of the Court.

8. (1) If the witness raises objections to his statement being audio visually recorded either at the outset or during the recording or during a break in the recording, and gives a reason for his objections, the law enforcement agent conducting the recording shall record the reason for the objection or if no reason is given, make a written note of the objection and in either case shall then turn off the recording equipment.

Objections and complaints by the witness.

(2) Where the recording is stopped during the recording, the recording media shall be sealed in accordance with rule 13(4).

Changing the recording media.

9. (1) In instances where the recording medium is not of sufficient capacity to record the entire statement of the witness, further recording media shall be used.

(2) Where, under subrule (1), the recording medium is changed, rules 13(3), (4) and 5 shall apply *mutatis mutandis*.

(3) When the recording equipment indicates that the recording medium has only a short time left to record, the law enforcement agent conducting the recording shall inform the witness that—

- (a) the recording medium is coming to an end;
- (b) he is completing this part of the recording; and
- (c) the recording will continue on a new recording medium.

(4) The law enforcement agent shall remove the recording media from the recording equipment and insert the new ones which have been removed from the manufacturer's sealed packaging in the presence of the witness and the recording equipment shall then be set to record.

Taking a break during the recording.

10. (1) When a break is to be taken during the course of a recording and the room or area is to be vacated by the witness, the fact that a break is to be taken, the reason for it and the time shall be recorded, and the recording equipment shall be turned off and the recording media removed.

(2) Where the recording media are to be removed under subrule (1), the procedure for the conclusion of a recording set out in rule 13(2) to (6) shall be followed.

(3) When a break is to be for not more than ten minutes, the fact that a break is to be taken, the reasons for it and the time

shall be recorded on the recording media, and the recording equipment shall be turned off but the recording media shall not be removed.

(4) When the recording is recommenced, the recording shall continue on the same recording media and the date and time at which the recording recommences shall be recorded and the law enforcement agent conducting the recording shall confirm that this is a continuation of the statement of the witness that was being recorded at the time of the break.

11. (1) If there is a failure of equipment which can be rectified quickly, the procedures set out in rule 10 shall be followed, with appropriate modifications as the circumstances may reasonably require.

Failure of recording equipment.

(2) When the recording is resumed, the law enforcement agent conducting the recording shall record and explain what has happened and the time the interview recommences.

(3) If, however, it is not possible to continue recording on that particular recorder and no alternative equipment is readily available, the recording of the statement may continue in writing.

12. Where recording media are removed from the recording equipment during the course of an interview, they shall be retained and the procedures set out in rule 13(2) to (6) shall be followed.

Removing recording media from recording equipment.

13. (1) After the conclusion of the recording, the witness shall be offered the opportunity to review his recorded statement, and any clarification, addition or alteration he makes shall also be recorded.

Conclusion of recording.

(2) At the conclusion of the recording, the time shall be recorded and the recording equipment switched off.

(3) One of the recording media shall be removed from the recording equipment, sealed as the master copy and labelled in the presence of the witness and any other recorded copies shall be used as working copies.

LAWS OF TRINIDAD AND TOBAGO

MINISTRY OF THE ATTORNEY GENERAL AND LEGAL AFFAIRS

www.legalaffairs.gov.tt

68

Chap. 7:02

Evidence

[Subsidiary]

Audio Visual Recording Rules

(4) Each recorded media, before it leaves the presence of the witness, shall contain a label showing the date of the recording, the start and finish time of the recording, and the name and signature of the witness and law enforcement agents.

(5) The label shall be signed by the law enforcement agent conducting the recording, the witness and any other person present during the recording.

(6) If the witness or a third party refuses or is unable to sign the label, a senior officer shall sign it in the presence of the witness, law enforcement agents and any other person who may have been present during the recording.

(7) If the recording is conducted in a place other than a police station, the senior officer present shall make a written note of the refusal or inability to sign the label.

Master copy security.

14. (1) Where the statement is recorded by the police, the Commissioner of Police shall make arrangements for the master copies to be kept securely and their movements accounted for on the same basis as other material which may be used for evidential purpose.

(2) Where the statement is recorded by another law enforcement agency, the officer authorised or designated by the head of the law enforcement agency shall make arrangements for the master copies to be kept securely and their movements accounted for on the same basis as other material which may be used for evidential purpose.

Working copy security.

15. Every working copy shall be secured in accordance with arrangements specified by the head of each law enforcement agency.

Breaking master copy seal for criminal proceedings.

16. (1) A law enforcement agent has no authority to break the seal on a master copy which is required for criminal proceedings or appeal proceedings.

UNOFFICIAL VERSION

UPDATED TO 31ST DECEMBER 2016

(2) Where the master copy has been admitted into evidence and any working copy is not available for any reason, the master copy shall only be accessed and copied by an order of the Court, which shall also specify the number of copies to be made.

(3) The Court shall only grant an order under subrule (2) where it is satisfied that the copy is required for the investigation or prosecution of an indictable offence or the summary trial of an indictable offence or the investigation of some other similar offence.

(4) Where an order is granted under subrule (2), the Registrar of the Supreme Court or his representative or the Chief Magistrate or the Deputy Chief Magistrate, as the case may be, shall break the seal of the master copy and copy it in the presence of an authorised or designated law enforcement agent.

(5) After the master copy has been copied, it shall be resealed and signed by the Registrar or a representative of the Registrar and the authorised or designated law enforcement agent.

17. (1) Where, other than any case specified under rule 16, it is necessary to access and copy a master copy because any working copy is not available for any reason, the person who requires the working copy shall make a written request, with reason, to the head of the relevant law enforcement agency for permission to copy the master copy.

Breaking
master copy
seal for other
cases.

(2) Where the head of the law enforcement agency grants permission under subrule (1), he shall make arrangements for the seal of the master copy to be broken, and for the master copy to be copied and resealed.

18. (1) Where under rule 16 or 17, the seal of the master copy is broken, and the master copy is copied and resealed, a record shall be made of the procedure followed, including the date, time and place and persons present.

Documentation.

(2) The breaking, copying and resealing of the master copy may include the process being video recorded.

LAWS OF TRINIDAD AND TOBAGO

MINISTRY OF THE ATTORNEY GENERAL AND LEGAL AFFAIRS

www.legalaffairs.gov.tt

70

Chap. 7:02

Evidence

[Subsidiary]

Audio Visual Recording Rules

Rule 3(3).

SCHEDULE

LAW ENFORCEMENT AGENCIES

A law enforcement agency includes—

- Ch. 15:01. (a) the Police Service established under the Police Service Act;
- Ch. 78:01. (b) the Customs and Excise Division established under the Customs Act; and
- Ch. 75:01. (c) the Board of Inland Revenue established under the Income Tax Act.

UNOFFICIAL VERSION

UPDATED TO 31ST DECEMBER 2016