

LEGAL NOTICE NO. 55

REPUBLIC OF TRINIDAD AND TOBAGO

THE CRIMINAL PROCEDURE ACT, CHAP. 12:02

RULES

MADE BY THE RULES COMMITTEE UNDER SECTION 78(A) OF THE SUPREME COURT OF JUDICATURE ACT, CHAP. 4:01; SECTION 41 OF THE JURY ACT, CHAP. 6:53; SECTION 14(C) OF THE EVIDENCE ACT, CHAP. 7:01; SECTION 16B OF THE INDICTABLE OFFENCES (PRELIMINARY ENQUIRY) ACT, CHAP. 12:01; SECTION 77(1) OF THE CRIMINAL PROCEDURE ACT, CHAP. 12:02 AND SUBJECT TO NEGATIVE RESOLUTION OF PARLIAMENT

THE CRIMINAL PROCEDURE RULES, 2016

**1. Citation and Commencement**

1.1 These Rules may be cited as the Criminal Procedure Rules, 2016.

1.2 These Rules shall come into force on 2nd January, 2017.

**2. Interpretation**

2.1 In these Rules, unless the context otherwise requires—

“accused” means a person against whom a complaint is made, information is laid, or an indictment is preferred and includes a defendant;

“authorised officer” means an officer so designated by virtue of section 43(3) of the Summary Courts Act; Chap. 4:20

“complainant” includes a person who files a complaint in relation to either an indictable or summary offence;

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

“court office” means—

(a) the place where documents are to be filed and includes a registry or sub-registry; and

(b) the place where work of a formal or administrative nature is to be dealt with by members of court staff;

“court officer” means the appropriate member of the staff at a court office;

“filing”, in relation to a document, means delivering, sending it by facsimile transmission or posting it to the appropriate court office and is not completed until the document is received at that office;

“Keeper” means the officer having the charge of any prison in Trinidad and Tobago;

“participant” means anyone involved in any way with the conduct of a criminal case;

“party” includes both the party to the criminal case and an Attorney-at-law on record for that party unless any rule specifies or it is clear from the context that it relates to the accused or to the Attorney-at-law.

### **3. The overriding objective**

3.1 The overriding objective of these Rules is that criminal cases be dealt with justly.

3.2 It is the duty of the court and all parties and participants, at every stage of proceedings where the context so requires, to further the overriding objective.

3.3 Dealing with a criminal case justly includes—

- (a) dealing with the prosecution and the defence fairly;
- (b) ensuring the protection of all the rights of an accused person;
- (c) considering the interests of the accused, witnesses, victims and jurors and keeping them informed of the progress of the case, as necessary;
- (d) dealing with the case efficiently and expeditiously;
- (e) ensuring that appropriate information is available to the court particularly when bail or sentence is under consideration; and
- (f) dealing with the case in ways that take into account—
  - (i) the gravity of the offence;
  - (ii) the complexity of what is in issue;
  - (iii) the consequences for an accused and others who may be affected;
  - (iv) the needs of other cases; and
  - (v) allotting the case an appropriate share of the court’s resources, while taking into account the need to allot resources to other cases.

3.4 The court must seek to give effect to the overriding objective when it—

- (a) exercises any discretion given to it by these Rules; or
- (b) interprets the meaning of any rule or practice direction.

3.5 (1) Each party shall—

- (a) actively assist the court in fulfilling its duty under rule 3.1 whether or not the court has made a direction; and
- (b) apply for a direction if needed.

(2) It is the duty of the participants in a criminal case to—

- (a) prepare and conduct the case in accordance with the overriding objective;
- (b) comply with these Rules, Practice Directions, orders and directions made or given by the court; and
- (c) immediately inform the court and all parties of any significant failure (whether or not that participant is responsible for that failure) to take any procedural step required by these Rules, Practice Directions or any orders or directions made by the court.

(3) In fulfilling his duty under this rule each party shall—

- (a) comply with the Rules, Practice Directions, orders and directions made or given by the court;
- (b) take every reasonable step to make sure its witnesses attend when needed;
- (c) make appropriate arrangements to present any written or other material; and
- (d) promptly inform the court and the other parties of anything that may—
  - (i) affect the date or duration of the trial; or
  - (ii) significantly affect the progress of the case in any other way.

3.6 Under these Rules, unless the context makes it clear that something different is meant, anything that a party may or shall do, may be done—

- (a) by an Attorney-at-law on that party's behalf;
- (b) by a person with the company's written authority, where that party is a company; and

- (c) with the help of a parent, guardian or other adult as the court may determine, where that party is an accused—
  - (i) who is under 18 years; or
  - (ii) whose understanding of what the case involves is limited.

#### **4. When these Rules apply**

4.1 These Rules, unless the context otherwise requires, apply in all criminal cases in the High Court and Summary Courts.

#### **5. Starting a prosecution in the Summary Court**

5.1 This Part applies to a Summary Court where—

- (a) proceedings have been instituted against an accused in accordance with Part III of the Summary Courts Act or the Indictable Offences (Preliminary Enquiry) Act; or
- (b) a person who is in custody appears before a Magistrate charged with an offence.

Chap. 4:20

Chap. 12:01

#### **Complaint/Information**

5.2 (1) A complainant who wants the court to issue a summons must—

- (a) file a complaint, lay or prefer an information in writing in the court office; or
- (b) unless any other written law otherwise provides, present an information orally to the court, with a written record of the allegation that it contains.

(2) A complainant who wants the court to issue a warrant must—

- (a) file a complaint, lay or prefer on the court office—
  - (i) an information in writing; or
  - (ii) a copy of a complaint that has been issued; or
- (b) present to the court either the complaint or the information.

(3) A single document may contain—

- (a) more than one information; or
- (b) more than one complaint.

(4) Where an offence can be tried only in the Summary Court, then unless any other written law otherwise provides—

- (a) a complainant must lay or prefer an information before the court officer or present it to the court; or
- (b) a complainant must file a complaint or information in the court office,

not more than 6 months after the offence alleged.

(5) Where an offence can be tried in the High Court then—

- (a) a complainant must lay or prefer an information before the court officer or present it to the court; or
- (b) a complainant must file a complaint within any time limit that applies to that offence.

#### **Allegation of offence in complaint/information**

5.3 (1) An allegation of an offence in an information or a complaint or charge must contain—

- (a) a statement of the offence that—
  - (i) describes the offence in ordinary language; and
  - (ii) identifies any written law that creates it; and
- (b) such particulars of the conduct constituting the commission of the offence so as to make clear what the complainant alleges against the accused.

(2) More than one incident of the commission of the offence may be included in the allegation if those incidents, taken together, amount to a course of conduct having regard to the time, place or purpose of commission.

#### **Summons/warrant**

5.4 (1) The court may issue or withdraw a summons—

- (a) without giving the parties an opportunity to make representations; and
- (b) without a hearing, or at a hearing in public or in private.

(2) The court may issue or withdraw a warrant—

- (a) without giving the parties an opportunity to make representations; and
- (b) without a hearing, or at a hearing in public or in private.

(3) Where appropriate, the court may inform such parties and participants that it has done so as the court may deem necessary.

(4) A summons or warrant may be issued in respect of more than one offence.

(5) A summons must—

(a) contain notice of when and where the accused is required to attend the court;

(b) specify each offence in respect of which it is issued; and

(c) identify—

(i) the court that issued it, unless that is otherwise recorded by the court officer; and

(ii) the court office for the court that issued it.

(6) A summons may be contained in the same document as information or must be accompanied by the complaint or information.

(7) Where the court issues a summons—

(a) the complainant must—

(i) serve it on the accused; and

(ii) notify the authorised officer; or

(b) the authorised officer must—

(i) serve it on the accused; and

(ii) notify the complainant.

(8) Unless it would be inconsistent with other legislation, a replacement summons may be issued without a fresh information or complaint where the one replaced—

(a) was served by leaving or posting it under rule 18.4 (documents that must be served only by handing them over, leaving or posting them); but

(b) is shown not to have been received by the addressee.

(9) A summons issued to an accused under 18 years of age may require that accused's parent or guardian to attend the court with the accused, or a separate summons may be issued for that purpose.

(10) A summons may be issued to secure the attendance of the complainant, notwithstanding that the court has received either a reasonable excuse for non-attendance of the complainant or other sufficient reason and has adjourned the hearing.

## **6. Bail Hearings before the Magistrate**

6.1 In the exercise of the power to remand the accused into custody for the purpose of considering bail, the Magistrate may grant a single adjournment for a period not exceeding two days.

## **7. Initial details of the prosecution case in Summary Courts**

### **When this Part applies**

7.1 This Part applies in the Summary Court in criminal proceedings.

### **Providing initial details of the prosecution case**

7.2 (1) The complainant must serve initial details of the prosecution case on the court officer—

- (a) as soon as practicable; and
- (b) in any event, no later than the commencement of the first hearing.

(2) Whether or not the accused person requests those details, the complainant must serve them on the accused or his Attorney-at-law—

- (a) as soon as practicable; and
- (b) in any event, no later than the commencement of the first hearing.

### **Content of initial details**

7.3 (1) Initial details of the prosecution case must include—

- (a) a summary of the evidence on which that case will be based;
- (b) any document or extract setting out facts or other matters on which that case will be based; or
- (c) any combination of such a summary, statement, document, extract or criminal record, if any.

(2) A failure to comply with the requirements of subrule (1), may lead to comments being made by the court.

## **8. Case management: The duty of the court**

8.1 (1) This Part applies to both the High Court and Summary Court in criminal proceedings.

(2) The court shall further the overriding objective by actively managing the case.

8.2 Active case management includes—

- (a) the early identification of the real issues, which includes—
  - (i) the identification of all possible legal issues;
  - (ii) identification of the nature of the defence; and
  - (iii) enquiring whether the defence has taken written instructions;
- (b) the early identification of the needs of witnesses or accused, including special measures for testimony including interpretation and translation services;
- (c) achieving certainty as to what shall be done, by whom, and when, in particular, by the early setting of a timetable for the progress of the case;
- (d) monitoring the progress of the case and compliance with directions;
- (e) ensuring that evidence, whether disputed or not, is presented in the shortest and clearest way;
- (f) discouraging delay, dealing with as many aspects of the case as possible on the same occasion, and avoiding unnecessary hearings;
- (g) encouraging the participants to co-operate in the progression of the case;
- (h) making use of technology;
- (i) in the case of a child or young person appearing before the court, ensuring that the child or young person has legal representation as soon as possible; and
- (j) any other matter the court deems necessary.

8.3 The court shall actively manage the case by giving any direction appropriate to the needs of that case as early as possible.

**9. Case progression officers and their duties**

9.1 (1) At the commencement of proceedings each party must, unless the court otherwise directs—

- (a) specify a person responsible for progressing that case; and
- (b) inform other parties and the court who that person is and how to contact that person.

(2) In fulfilling its duty under rule 3.2, the court must, where appropriate—

- (a) nominate a court officer responsible for progressing the case; and
- (b) ensure the parties know who that person is and how to contact him.

(3) A person nominated under this rule means a case progression officer.

(4) A case progression officer must—

- (a) monitor compliance with directions;
- (b) ensure that the court is kept informed of events that may affect the progress of that case;
- (c) ensure that he can be contacted promptly about the case during ordinary business hours;
- (d) act promptly and reasonably in response to communications about the case; and
- (e) if he will be unavailable, appoint a substitute to fulfil his duties and inform the other case progression officers.

## **10. The court's case management powers**

10.1 (1) In fulfilling its duty under rule 3.2 the court may give any direction and take any step to actively manage a case.

(2) In particular, the court may—

- (a) give a direction on its own initiative or on application by a party;
- (b) ask or allow a party to propose a direction;
- (c) for the purpose of giving directions, receive applications and representations by letter, by telephone or by any other means of electronic communication, and conduct a hearing by such means;
- (d) fix, postpone, bring forward, extend, cancel or adjourn a hearing;
- (e) give directions without a hearing;
- (f) shorten or extend (even after it has expired) a time limit fixed by a direction;
- (g) require that issues in the case should be—
  - (i) identified in writing; or

- (ii) determined separately, and decide in what order they will be determined;
- (h) require parties to file in Court written submissions, including a no case submission by the defence and reply by the prosecution and serve such submissions and reply on a date or within a period directed by the Court; or
- (i) specify the consequences of failing to comply with a direction.

10.2 Any power to give a direction under this Part includes a power to vary or revoke that direction.

10.3 If a party fails to comply with a rule or a direction, the court may—

- (a) fix, postpone, bring forward, extend, cancel or adjourn a hearing; or
- (b) impose such other sanction as may be appropriate.

## **11. Application to vary a direction**

11.1 (1) A party may apply to vary a direction if—

- (a) the court gave it without a hearing;
- (b) the court gave it at a hearing in his absence; or
- (c) circumstances have changed.

(2) A party who applies to vary a direction must—

- (a) apply as soon as practicable after he becomes aware of the grounds for doing so; and
- (b) give as much notice to the other parties as the nature and urgency of his application permits.

## **12. Agreement to vary a time limit fixed by a direction—**

12.1 (1) The parties may agree to vary a time limit fixed by a direction, but only if—

- (a) the variation will not—
  - (i) affect the date of any hearing that has been fixed; or
  - (ii) significantly affect the progress of the case in any other way;
- (b) the court has not prohibited variation by agreement; and
- (c) the court's case progression officer is promptly informed.

(2) The case progression officer must refer the agreement to the court if he doubts the condition in subrule (1)(a) is satisfied.

### **13. Case preparation and progression**

13.1 (1) At every hearing, if a case cannot be concluded there and then, the court may give directions so that it can be concluded at the next hearing, or as soon as possible after that.

(2) At every hearing the court must, where relevant—

- (a) if the accused is absent, decide whether to proceed nonetheless;
- (b) take the accused's plea (unless already done) or if no plea can be taken, then ascertain whether the accused is likely to plead guilty or not guilty;
- (c) set, follow or revise a timetable for the progress of the case, which may include a timetable for any hearing including the trial;
- (d) in giving directions, ensure continuity in relation to the court and to the parties' representatives where that is appropriate and practicable; and
- (e) where a direction has not been complied with, enquire into the reasons for non-compliance, identify who was responsible, and take appropriate action.

(3) In order to prepare for the hearing, the court must take every reasonable step—

- (a) to encourage and to facilitate the attendance of witnesses when they are needed; and
- (b) to facilitate the participation of any person, including the accused.

### **14. Disclosure of material**

14.1 Directions given by the court pursuant to rule 10 should include—

- (a) fixing a date by which the prosecution must disclose to the accused all the evidence they intend to rely upon at trial;
- (b) fixing a date by which the prosecution must disclose any material in its possession that they do not intend to use at trial which materially weakens the prosecution case or assists the accused; and

- (c) fixing a date by which the prosecution must confirm if any material in its possession that they do not intend to use at trial, which materially weakens its case or assists the accused, has been served on the accused.

14.2 (1) The prosecution shall disclose material under rule 14.1(b), unless the Magistrate or Judge orders that such material should not be disclosed in the public interest.

(2) Any application for an order under subrule (1) may be made with or without notice to the accused depending on the sensitivity of the material concerned.

(3) An accused person or his Attorney-at-law may make an application to the Court to permit the accused and his Attorney-at-law to inspect and copy relevant prosecution material if not made available under rule 14.1(b).

## 15. Notice of alibi

15.1 Where the accused intends to rely on an alibi at his trial and he has not provided particulars to the court in accordance with section 16A of the Indictable Offences (Preliminary Enquiry) Act, he may give those particulars in writing to the Director of Public Prosecutions as set out in Form 1 of the Schedule.

Chap. 12:01  
Form 1  
Schedule

## 16. Trial management

16.1 In order to manage a trial, the court—

- (a) must establish the disputed issues with the active assistance of the parties;
- (b) must consider setting a timetable that takes account of the disputed issues and any timetable proposed by a party;
- (c) may require a party to identify either orally or in writing—
  - (i) which witnesses that party wants to give evidence in person;
  - (ii) the order in which its witnesses are to give evidence;
  - (iii) whether that party requires an order compelling the attendance of a witness;
  - (iv) what arrangements or special measures are desirable to facilitate the giving of evidence by a witness;

- (v) what arrangements are desirable to facilitate the participation of any other person, including the accused;
  - (vi) what written or other evidence that party intends to introduce;
  - (vii) what facts and evidence can be agreed between the parties;
  - (viii) what other material, if any, that person intends to make available to the court in the presentation of the case;
  - (ix) whether that party intends to raise any point of law that could affect the conduct of the trial;
  - (x) set a timetable for the service of written submissions and lists of authorities that the party intends to rely on; and
  - (xi) the relevant disclosure a party requests to be made;
- (d) may limit—
- (i) the examination, cross-examination or re-examination of a witness; and
  - (ii) the duration of any stage of the hearing; and
- (e) may make a direction that the case be heard in another court.

16.2 The Court may require the prosecutor and the Attorney-at-law for the accused to file a certificate of readiness as set out in Form 2 and Form 3 respectively, of the Schedule, before trial.

Form 2  
Form 3  
Schedule

16.3 In matters before the High Court, the court will require a completed hearing questionnaire as set out in Form 4 of the Schedule, to be filed by the parties before the matter is listed for a case management hearing.

Form 4  
Schedule

## **17. Trial and sentence in the Summary Court**

### **When this Part applies**

17.1 This Part applies in a Summary Court where—

- (a) the court tries a case or the accused is found guilty; or
- (c) the accused pleads guilty.

- 17.2 (1) Where this Part applies—
- (a) the general rule is that the hearing must be in public; but
  - (b) the court may exercise any power it has to—
    - (i) impose reporting restrictions;
    - (ii) withhold information from the public; or
    - (iii) order a hearing in private; and
  - (c) unless the court otherwise directs, only the following may attend a hearing in a court where a person under the age of 18 years is tried:
    - (i) the parties and their legal representatives;
    - (ii) an accused's parents, guardian or other supporting adult;
    - (iii) a witness; and
    - (iv) anyone else directly concerned in the case.
- (2) Unless already done, the court must—
- (a) read the allegation of the offence to the accused;
  - (b) explain, in terms the accused can understand (with help, if necessary)—
    - (i) the allegation; and
    - (ii) what the procedure at the hearing will be;
  - (c) ask whether the accused has been advised that he can request a sentence indication for a guilty plea;
  - (d) ask whether the accused pleads guilty or not guilty; and
  - (e) take the accused's plea.

### **Procedure on plea of not guilty**

- 17.3 (1) This rule applies—
- (a) if the accused has—
    - (i) entered a plea of not guilty; or
    - (ii) not entered a plea; or
  - (b) if, in either case, it appears to the court that there may be grounds for making an order pursuant to section 13 of the Mental Health Act without convicting the accused.

- (2) If a not guilty plea was taken on a previous occasion, the court must ask the accused to confirm that plea.

(3) The prosecution—

- (a) may summarise its case, identifying the relevant law and facts; and
- (b) must introduce the evidence on which it relies.

(4) At the conclusion of the case for the prosecution, on the application of the accused or on its own initiative, the court—

- (a) may acquit on the ground that a *prima facie* case has not been made out and the prosecution evidence is insufficient for any reasonable court properly to convict, but must not do so unless the prosecution has had an opportunity to make representations; and
- (b) must inform the accused or his Attorney-at-law of his right to address the court at the commencement or conclusion of his case.

(5) The court must explain—

- (a) in terms the accused can understand (with help, if necessary) of the right to give evidence; and
- (b) that the accused may introduce evidence.

(6) A party may introduce further evidence if it is then admissible.

(7) Where a party wants to introduce evidence or make representations after that party's opportunity to do so has passed, the court—

- (a) may refuse to receive any such evidence or representations; and
- (b) must not receive any such evidence or representations after it has announced its verdict.

(8) Where the Summary Court convicts or acquits the accused, it must give sufficient reasons for its decision.

### **Evidence of a witness in person**

17.4 (1) This rule applies where a party wants to introduce evidence by calling a witness to give that evidence in person.

- (2) Unless the court otherwise directs—
  - (a) a witness waiting to give evidence must not wait in the courtroom, unless that witness is—
    - (i) a party; or
    - (ii) an expert witness;
  - (b) a witness who gives evidence in the courtroom must do so from the place provided for that purpose or in some other place as directed by the court; and
  - (c) a witness' address must not be given unless it is relevant to an issue in the case.

(3) Unless any written law otherwise provides, before giving evidence, a witness must take an oath or affirm.

(4) The examination of a witness must be done in the following sequence:

- (a) the party who calls a witness must ask questions in examination-in-chief;
- (b) every other party may ask questions in cross-examination; and
- (c) the party who called the witness may ask questions in re-examination,

and the court has a discretion to allow questions outside of the above sequence.

- (5) The court may—
  - (a) ask a witness questions for the purpose of clarification; and
  - (b) where the accused is not represented, may ask any question necessary in the interest of the accused.

#### **Evidence of a witness in writing**

17.5 (1) This rule applies where a party wants to introduce in evidence the written statement of a witness.

- (2) If the court admits such evidence—
  - (a) each relevant part of the statement must be read or summarised aloud by the party introducing the evidence; or

- (b) the court may read the statement and its gist must be summarised aloud.
- (3) A written statement of a witness may not contain the address of the witness.

**Evidence by admission**

17.6 (1) This rule applies where—

- (a) a party introduces in evidence a fact admitted by another party; or
- (b) parties jointly admit a fact.

(2) Unless the court otherwise directs, a written record must be made of the admission.

**Procedure on plea of guilty**

17.7 (1) This rule applies if—

- (a) the accused pleads guilty; and
- (b) the court is satisfied that the plea represents a clear acknowledgement of guilt.

(2) The prosecution must summarise the prosecution case against the accused to the court.

(3) The court may convict the accused without receiving evidence.

**Application to withdraw a guilty plea**

17.8 (1) This rule applies where the accused wants to withdraw a guilty plea.

- (2) The accused must apply to do so—
  - (a) as soon as practicable after becoming aware of the reasons for doing so; and
  - (b) before sentence.

(3) The application may be in writing and where it is in writing, the accused must serve it on—

- (a) the court office; and
- (b) the prosecutor.

(4) The application must—

- (a) explain why it would be unjust not to allow the accused to withdraw the guilty plea;
- (b) identify—
  - (i) any witness that the accused wants to call; and
  - (ii) any other proposed evidence; and
- (c) state whether the accused waives legal professional privilege, giving any relevant name and date.

(5) The Court shall consider the matters stated in subrule (4) and may in its discretion, grant or refuse an application made in accordance with this rule, as the justice of the case requires.

#### **Procedure if the court convicts**

17.9 (1) This rule applies if the court convicts the accused or the accused is convicted by the decision of a jury.

(2) The court may, where appropriate, exercise its power to require—

- (a) a statement of the accused's financial circumstances; and
- (b) a pre-sentence or probation report.

(3) The prosecution must—

- (a) provide information relevant to sentence, including any statement of the effect of the offence on the victim, the victim's family or persons connected to the victim or the offence; and
- (b) where it is likely to assist the court, identify any other matter relevant to sentence, including—
  - (i) aggravating and mitigating factors;
  - (ii) the legislation applicable; and
  - (iii) any sentencing guidelines, or guideline cases.

(4) The accused must provide details of financial circumstances—

- (a) in any form required by the court; or
- (b) by any date directed by the court.

(5) Where the accused pleads guilty but wants to be sentenced on a different basis to that disclosed by the prosecution—

- (a) the court may require the accused to set out that basis in writing, identifying what is in dispute;
- (b) the court may invite the parties to make representations about whether the dispute is material to the sentence to be imposed on the accused; and
- (c) if the court decides that it is a material dispute, the court must—
  - (i) invite such further representations or evidence as it may require; and
  - (ii) decide the dispute.

(6) Before the court passes sentence—

- (a) the court must—
  - (i) give the accused an opportunity to make representations and introduce evidence relevant to sentence; and
  - (ii) where the accused is under 18 years, give the parents of the accused, guardian or other supporting adult, if present, such an opportunity as well; and
- (b) the court may elicit any further information relevant to sentence that the court may deem necessary.

(7) If the court requires more information, it may exercise its power to adjourn the hearing for not more than 28 days at a time.

(8) When the court has taken into account all the evidence, information and any report available, the court must—

- (a) as a general rule, pass sentence there and then;
- (b) when passing sentence, explain the reasons for deciding on that sentence, unless neither the accused nor any member of the public is present;

- (c) in circumstances where there is a power to review the sentence, explain to the accused its effect and when passing sentence, explain to the accused its effect and the consequences of failing to comply with any order or payment of any fine;
- (d) give any such explanation in terms the accused, if present, can understand (with help, if necessary); and
- (e) consider exercising any power it has to make a costs or other order.

### **18. Applications for exemption from jury service**

18.1 (1) Applications for exemption from jury service may be heard by a Judge in Chambers or a Master.

(2) The Judge in Chambers or Master may decide the application on the basis of the documentation provided by the applicant without an oral hearing.

(3) The Judge in Chambers or Master may, in his discretion, permit the applicant to make oral submissions.

18.2 (1) An application for exemption must be made in writing, either on the form provided by the court or by a letter addressed to the Registrar.

(2) As far as possible, any ground relied upon for exemption, must be supported by documents.

(3) Where the applicant relies on medical grounds, the following shall be applicable:

- (a) a medical report signed by a registered medical practitioner must be produced; and
- (b) if the medical report is handwritten, the handwriting must be legible.

(4) The medical report referred to in subrule (3) must include the following information:

- (a) the name of the patient;
- (b) the length of time the doctor has been treating the patient;
- (c) the diagnosis and the date on which the diagnosis was first made;

- (d) the last date on which the patient was seen by the doctor;
- (e) the treatment prescribed by the doctor; and
- (f) where applicable, whether the patient is able to continue his employment notwithstanding the diagnosed condition or whether the patient requires sick leave and the length of such recommended sick leave.

(5) Where the applicant relies on the ground of travel out of the jurisdiction, the following shall be applicable:

- (a) a valid ticket or travel itinerary must be provided; and
- (b) the ticket should have been booked or purchased before the jury summons was served on the juror.

(6) Where the applicant relies on the ground of being a student the following shall be applicable:

- (a) a letter from the school administration indicating that the juror is a full-time student of that institution;
- (b) if the student attends school part time during normal court hours, a letter from the school administration indicating the times at which the juror must attend classes must be provided; and
- (c) if the juror is scheduled to write exams, a valid examination timetable must be provided.

## **19. Case Management Forms and Records**

19.1 The Hearing Questionnaire and Certificates of Readiness set out as Forms 1 and 2 shall be used where relevant and where there is no form, then no specific formality is required.

19.2 The court shall issue and make available to the parties any order or directions given.

## **20. Practice Directions and Guides**

20.1 The Chief Justice may issue practice directions and practice guides in furtherance of the relevant legislation and these Rules.

### **Publication of Practice Directions and Effective Date**

20.2 Practice directions must be—

- (a) published in the *Trinidad and Tobago Gazette*; and
- (b) displayed and made available at each court office.

20.3 A practice direction takes effect from the date of publication in the *Gazette* unless the direction specifies another date.

### **Compliance with Practice Directions and Guides**

20.4 (1) If a party fails to comply with a practice direction, the court may impose such sanction or make such order, as may be appropriate against him in accordance with rule 10.3.

(2) The court may take into account the failure of any party to comply with any practice guide when deciding whether or not to impose such sanction or make such order in accordance with rule #10.3.

## **21. Service of Documents**

### **Personal Service**

21.1 (1) A document is served personally on an individual by handing it to, or leaving it with, the person to be served.

(2) Where a document is left in accordance with subrule (1), the nature and the contents of the document must be explained by the serving party where practicable.

(3) Service is deemed to be effected on the day it is handed to, or left with, the person being served.

### **Service on a Company**

21.2 (1) A document is served on a company by handing it to, or leaving it with a director, officer, receiver, receiver-manager or liquidator of the company or by prepaid post addressed to the registered office of the company.

(2) Where service is effected on a company by pre-paid post addressed to the registered office of that company, service is deemed to be effected on the fourteenth day from the date the document was posted.

### **Service on a person in custody**

21.3 (1) Service on a person in custody may be effected by handing the document to the Keeper or a person designated by him addressed to the person to be served.

- (2) The Keeper or a person designated by him must—
  - (a) endorse it with time and date of receipt;
  - (b) record its receipt; and
  - (c) forward it promptly to the addressee.

#### **Address for serving documents not required to be served personally**

21.4 (1) Where a document is not required to be served personally, and a party has given an address at which documents for him may be served, the documents may be delivered or posted to him at that address.

(2) If the party has given a facsimile transmission number in his address for service, the documents may be sent by facsimile transmission to that number.

#### **Service by electronic means**

21.5 (1) This rule applies where—

- (a) the person or company to be served—
  - (i) has given an electronic address; and
  - (ii) has agreed to accept service by electronic means; or
- (b) the person to be served is legally represented in the case and the representative has given an electronic address.

(2) A document may be served by transmitting it by electronic means to that person or representative, as appropriate, at that address.

(3) Where a document is served under this rule, the person serving it need not provide a paper copy as well.

(4) Where service is effected by electronic means, service is deemed to be effected on the next business day after the document was transmitted.

#### **Alternative methods of service**

21.6 (1) Instead of personal service, a party may apply to the court for an alternative method of service.

(2) Where a party chooses an alternative method of service and the court is asked to take any step on the basis that the document has been served, the party who served the document must prove service to the satisfaction of the court by filing an affidavit—

(a) giving details of the method of service used;

(b) stating that—

(i) the person intended to be served was able to ascertain the contents of the documents; or

(ii) it is likely that he would have been able to do so; and

(c) stating the time when the person served was, or was likely to be in a position to ascertain the contents of the documents.

(3) The court office must immediately refer to the court for consideration any affidavit filed under subrule (2).

(4) If the court is not satisfied with the method of service the Court must fix a date, time and place to consider making an order and give at least 3 days' notice to the party making the application.

#### **Service by person in custody**

21.7 (1) In instituted proceedings, a person in custody may serve a document by handing it to the Keeper or a person designated by him and addressed to the person to be served.

(2) The Keeper or a person designated by him must—

(a) endorse it with time and date of receipt;

(b) record its receipt; and

(c) forward it promptly to the relevant court office for transmission to the addressee.

#### **Documents to be served personally**

21.8 The following documents are to be served personally:

(a) complaints, summonses or indictments;

(b) Writs of *Subpoena ad testificandum* or Writs of *Subpoena duces tecum*;

(c) applications, written statements or notices alleging conduct constituting contempt of court; and

(d) notices which require personal service by any enactment.

**Permitted place of service**

21.9 Except as permitted by rule 21.12, a document must be served at a place within the jurisdiction.

**Proof of personal service**

21.10 (1) Personal service of any document is to be proved by an affidavit sworn by the server of the document stating—

- (a) the date and time of service;
- (b) the precise place or address at which it was served;
- (c) precisely how the person served was identified; and
- (d) precisely how service was effected.

(2) Where the person served was identified by another person, there must also be filed where practicable, an affidavit by that person proving the identification of the person served and stating how the person was able to identify the person served.

(3) Where the server identified the person to be served by means of a photograph or description, there must also be filed an affidavit by a person verifying the description or photograph as being the person intended to be served and stating how that person was able to verify the description or photograph as being the person intended to be served.

**Power of court to dispense with service**

21.11(1) The court may dispense with service of a document if it is appropriate to do so.

(2) An application for an order to dispense with service may be made without notice.

**Service of court process outside the jurisdiction**

21.12(1) Where process is required to be served outside Trinidad and Tobago, it shall be served in accordance with sections 14 and 33B of the Mutual Assistance in Criminal Matters Act.

Chap. 11:24

(2) For the purposes of this Rule, “process” includes a summons, order, *subpoena* or other similar document issued by a court requiring a person to attend the court in relation to criminal proceedings.

**22. Time Computation**

22.1 (1) This Rule shows how to calculate any period of time for doing any act which is fixed by—

- (a) these Rules;
- (b) any Practice Direction; or
- (c) any order or direction of the Court.

(2) All periods of time expressed as a number of days are to be computed as clear days.

(3) In this rule, “clear days” means that in computing the number of days the day on which the period begins and the day on which the period ends are not included.

(4) Where the specified period is 5 days or less, and includes a Saturday or Sunday, or any other day on which the court office is closed, that day does not count.

(5) When the period fixed by these Rules, by any practice direction, or by any order, for doing any act at the court office ends on a day on which the court is closed, it shall be in time if done before 4.00 p.m. on the next day on which the court is open.

(6) When the period fixed by these Rules, any practice direction, or by any order, for doing any act which does not need to be done at court ends on a Saturday or Sunday, on any public holiday, or on Carnival Monday or Carnival Tuesday, it must be done before 4.00 p.m. on the next ordinary business day.

**23. Revocation of the Criminal Procedure Rules, 2013.**

L.N. No. 91 of  
2013 revoked

23.1 The Criminal Procedure Rules, 2013 are revoked.

SCHEDULE

FORM 1

(Rule 15)

NOTICE OF ALIBI

(Section 16A of the Indictable Offences (Preliminary Enquiry) Act, Chap. 12:01)

Magisterial Case Number:

TO: The Director of Public Prosecutions.

Complainant: .....  
(Rank) (Name) (Regimental Number)

Accused: .....  
(Surname) (First Name)

The particulars of my claim of alibi are: (See note 1 overleaf)

.....  
.....  
.....

The accused intends to rely upon the testimony of the following witnesses to establish the alibi:

No.	Name of Witness	Address	Additional Information (e.g., phone nos., description, relatives)	Occupation
1				
2				

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 .

\_\_\_\_\_  
Accused

\_\_\_\_\_  
Attorney-at-law for the Accused

**IMPORTANT NOTES**

1. State the specific place(s) where the accused claims he was at the time of the alleged offence and any other person(s) who were present whose identities are known.
  
2. In accordance with sections 16A(1) and 16B(3)(a) you are required to give the names and addresses of all proposed witnesses or if such information is not known, all information in your possession or which comes into your possession, which would assist in identifying and locating the witnesses you propose to call.
  
3. If after the giving of this notice you discover the name, address or any other information which would materially assist in the locating of any witness whose name and address is not included in this notice you are required to furnish to the Director of Public Prosecutions forthwith, that information.
  
4. This Notice must be delivered to or left at the office of the Director of Public Prosecutions no later than ten (10) days from the end of the committal proceedings.

Where a party finds that insufficient space is provided to complete a response, the answer may be given on a separate sheet of paper attached.

FORM 2

CERTIFICATE OF READINESS

(Prosecutor)

(Rule 16)

(Offence)

Advocate (Name of Advocate) (Bar No.)

(Tel No., Fax No., E-mail Address)

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE .....MAGISTRATES/HIGH COURT OF JUSTICE

Cr. No.

BETWEEN

THE STATE

AND

A. B.

Accused

CERTIFICATE OF READINESS

For Case Management Hearing scheduled for ..... month/day/year

(Check the appropriate boxes and complete as required.)

1. Name of the accused to which this report applies: \_\_\_\_\_

2.  I am advised by Attorney-at-law for the accused that the matter will be disposed of at scheduled trial confirmation hearing.

(If you check this box, skip items 3 to 11 but complete and sign the date/signature blocks at item 12.)

3A.  I have reviewed the file and confirm that I am ready to proceed.

3B.  The prosecutor is seeking an adjournment for the following reasons:

4.  It is anticipated that the prosecution will call-

(a) (number) police witnesses (excluding expert witnesses);

(b) (number) expert witnesses; and

(c) (number) other witnesses.

5.  I have confirmed that all witnesses for the prosecution have been notified and are available to attend on the date set.

6.  The prosecutor's case is expected to take \_\_\_\_\_  
time estimated.
7.  To the best of my knowledge, there are no outstanding issues respecting disclosure under Rule 14.
8.  All required notices and reports have been provided or will have been provided within applicable time limits.
9.  All necessary orders for the attendance of the accused and any witness for the prosecution have been obtained or will have been obtained.
10.  Since the accused's directions hearing admissions regarding expert testimony and other evidence have been canvassed with legal counsel for the accused.
11.  I expect to make an application before/during the hearing.
12. Date: \_\_\_\_\_  
month/day/year
- Signature of Prosecutor  
(Print full name)

FORM 3

CERTIFICATE OF READINESS  
(Attorney-at-law for the Accused)

Rule 16  
(Offence)  
Advocate (Name of Advocate) (Bar No.)  
(Tel No., Fax No., E-mail Address)

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE .....MAGISTRATE'S/HIGH COURT OF JUSTICE  
Ct. No.

BETWEEN  
THE STATE

AND  
A. B.

Accused

CERTIFICATE OF READINESS

For Pre-Trial Hearing scheduled for.....  
month/day/year

(Check the appropriate boxes and complete as required.)

1. Name of the accused to which this report applies:

\_\_\_\_\_

- 2.  I expect this matter will proceed on the date set.
- 3.  To the best of my knowledge, there are no outstanding issues respecting disclosure under Rule 14.
- 4.  The accused is seeking an adjournment for the following reasons:  
 Check if more space is required and add another page.
- 5.  It is anticipated that the defence will call \_\_\_\_\_ number of witnesses.
- 6.  All necessary orders for the attendance of any witness for the accused have been obtained or will have been obtained.
- 7A.  The time estimated for this matter is adequate.

OR

7B.  The time estimated for this matter is inadequate and a revised time estimate is

8.  I expect to make an application before/during the hearing.

9. Date: \_\_\_\_\_

month/day/year

\_\_\_\_\_  
Signature of Attorney-at-law for the Accused

(Print full name)

FORM 4

HEARING QUESTIONNAIRE

(Rule 16.3)

(Offence)

Advocate (Name of Advocate) (Bar No.)

(Tel No., Fax No., E-mail Address)

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE

Cr. No.

BETWEEN

THE STATE

AND

A. B.

Accused

HEARING QUESTIONNAIRE

Before the date set for the first Case Management Hearing, Counsel on record for each accused person, and the State Prosecutor assigned to conduct the prosecution, shall each complete and sign Case Management Hearing Questionnaire and ensure that the questionnaire is filed and served in accordance with these Rules or any directions of the Court.

Where a party finds that insufficient space is provided to complete a response to a particular question, the answer may be given on a separate sheet of paper attached to the back of this form. The fact that the response is provided and attached on a separate sheet is to be indicated in the space provided on the form.

PRELIMINARY INFORMATION

Name of Case \_\_\_\_\_

Court \_\_\_\_\_ POS/S'FDO/TGO

Report prepared by \_\_\_\_\_

Prosecution  Defence

Counsel for \_\_\_\_\_

[insert name of accused person(s)]

Has Counsel discussed the issues raised in this form with the accused? Yes  No

CASE/BAIL HISTORY

Date(s) of Offence(s):

Date of Arrest:

Date of any orders made by the court:

Date Indictment filed:

Is the accused detained in custody on this/these charges? Yes  No

If yes, how long has the accused spent in custody? \_\_\_\_\_

Is the accused detained in custody on any other charges? Yes  No

Is this matter a re-trial? Yes  No

Are notes of evidence from the previous trial available? Yes  No

If yes, give details of why retrial ordered

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PLEA DISCUSSIONS

Have the parties considered Plea Discussions under the Criminal Procedure (Plea Discussion and Plea Agreement) Act, Chap. 13:07? Yes  No

Is the State open to a plea to a lesser count? (where applicable) Yes  No

Has a plea agreement been concluded? Yes  No

Is the accused going to make an application for a Sentence Indication Hearing? Yes  No

PRELIMINARY MATTERS

Have all disclosure issues been resolved? Yes  No

If not, what is outstanding?

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Are there any witnesses on deposition that the prosecution does not intend to call/rely upon? Yes  No

Is there likely to be an application to the Court for Order(s) in relation to Disclosure? Yes  No

What are the real issues?

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The Prosecution/Defence intends to make any of the following applications:

Amendment Yes  No

Application to Stay Proceedings	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Severance	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Application to Quash Indictment	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Change of Venue	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Application for leave to adduce hearsay evidence	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Fitness to Plead	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Application for leave to adduce Alibi Evidence	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Fresh Evidence	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Bad Character	Yes <input type="checkbox"/>	No <input type="checkbox"/>
To admit Written Statements	Yes <input type="checkbox"/>	No <input type="checkbox"/>
To admit Video Recordings	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Breach of Constitutional Rights	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Mental Health Issues- Psychiatric Evaluation/Report	Yes <input type="checkbox"/>	No <input type="checkbox"/>
To exclude specific pieces of Evidence	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Probation Report	Yes <input type="checkbox"/>	No <input type="checkbox"/>

If you have ticked “yes” to any of the above-mentioned applications, please specify in writing to the Court on a separate page if the space provided below is insufficient the following information:

- (1) The specific application(s) to be made.
- (2) The Jurisdiction (Common Law/Statute) under which the Application is being made.
- (3) Whether there is anything precluding the Court from Ruling on these Applications at the Case Management Hearing.



If no, are you prepared to consider agreeing evidence that is not in dispute? Yes  No

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ORAL/WRITTEN STATEMENTS

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Is the Prosecution relying upon a written/oral statement of the accused? Yes  No

Is the accused challenging the statement? Yes  No

If yes, please specify grounds

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If no, is the defence making any allegation of improper conduct on the part of any police officer or other official in relation to any oral or written statement? Yes  No

Has the prosecution been informed of the grounds of objection or allegation of improper conduct? Yes  No

Has disclosure been made of relevant material relative to a *voir dire*? Yes  No

Will there be any application to edit a statement of the accused? Yes  No

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SPECIAL DEFENCE ISSUES

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Does the defence propose to rely on Good Character evidence? Yes  No

Is the defence relying on an alibi? Yes  No

Has notice been given to the Prosecution in accordance with the Act? Yes  No

Does the defence intend to now give notice of an alibi? Yes  No

Does the accused intend to call any witnesses? Yes  No

If yes, please indicate the number \_\_\_\_\_

SPECIAL ADMINISTRATIVE MATTERS

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Are there any special security concerns for the court to consider?      Yes     No

Is there any need for an interpreter?      Yes     No

Is there likely to be any application to visit the locus?      Yes     No

Is there need for any special equipment, e.g., video/projectors, etc.      Yes     No

Is there to be an application to have an empanelled jury sequestered?      Yes     No

ANY OTHER CONCERNS

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Please Specify:

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Made by the Rules Committee this 6<sup>th</sup> day of April, 2016.

  
Chief Justice

  
Justice of Appeal



Judge of the High Court



Attorney General



Attorney-at-law



Attorney-at-law



Registrar