

ANTIGUA AND BARBUDA



**THE TRAFFICKING IN PERSONS (PREVENTION) ACT, 2010**

**No. 12 of 2010**

*[ Published in the Official Gazette Vol. XXX No. 63  
dated 11th November, 2010. ]*

Printed at the Government Printing Office, Antigua and Barbuda,  
by Paget Terry Acting, Government Printer  
— By Authority, 2010.



**THE TRAFFICKING IN PERSONS (PREVENTION) ACT, 2010**

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[L.S.]



I Assent,

**Louise Lake-Tack,**  
*Governor-General.*

25th October, 2010.

**ANTIGUA AND BARBUDA**

**THE TRAFFICKING IN PERSONS (PREVENTION) ACT, 2010**

**No. 12 of 2010**

**AN ACT** to give effect to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organised Crime, 2000; to combat the trafficking in persons within and across the borders of Antigua and Barbuda; to provide for the offence of trafficking in persons and other offences associated with trafficking in persons; to provide measures to protect and support trafficked persons and for incidental and connected purposes.

**ENACTED** by the Parliament of Antigua and Barbuda as follows:

**PART I**

**PRELIMINARY**

**1. Short title and commencement**

(1) This Act may be cited as the Trafficking in Persons (Prevention) Act, 2010.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*, and the Minister may appoint different dates for the coming into operation of different provisions of this Act.

**2. Interpretation**

In this Act—

“abuse of vulnerability” means any physical or psychological abuse that leads a person to believe that he has no reasonable alternative but to submit to exploitation, and includes taking advantage of the vulnerabilities of that person resulting from—

- (a) the person having entered or remained in Antigua and Barbuda illegally or without proper documentation;
- (b) the person’s pregnancy;
- (c) any disability of the person;
- (d) the person’s addiction to the use of any dependence-producing substance;
- (e) the person’s infancy; or
- (f) the person’s socio-economic circumstances;

“child” means a person who is under the age of eighteen years, whether born in or out of wedlock;

“coercion” means—

- (a) a threat of serious harm to or physical restraint against a person;
- (b) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against a person; or
- (c) the abuse or threatened abuse of the legal process;

“conveyance” means a vehicle, vessel, ship, aircraft, or any other mode of transport whether by air, sea or land;

“Committee” means the Trafficking in Persons Prevention Committee established under section 7;

“customs officer” has the same meaning assigned to it by the Customs (Control and Management) Act, 1993, No. 7 of 1993;

“debt bondage” means the status or condition that arises from a pledge by a person of his personal services or the personal services of a person under his control, as security for a debt owed, or claimed to be owed, including a debt incurred or claimed to be incurred after the pledge is given, by that person if—

- (a) the debt owed or claimed to be owed, as reasonably assessed, is manifestly excessive;



- (b) the value of the services as reasonably assessed is not applied towards the liquidation of the debt or purported debt; or
- (c) the length and nature of those services are not respectively limited and defined;

“enforcement officer” means an officer specified in section 29;

“exploitation” means all forms of sexual exploitation, forced labour, slavery or practices similar to slavery, servitude, any illegal activity or the removal of human organs;

“forced labour” means labour or services obtained or maintained through threats, the use of force, intimidation or other forms of coercion, or physical restraint;

“fraudulent travel or identity document” means a travel or identity document that—

- (a) has been made, or altered in a material way, by a person other than a person or agency lawfully authorised to make or issue the travel or identity document on behalf of a country;
- (b) has been issued or obtained through misrepresentation, corruption or duress or in any other unlawful manner; or
- (c) is being improperly used by a person other than the rightful holder;

“immigration officer” has the same meaning assigned to it by the Immigration and Passports Act, Cap. 208;

“medical officer” means a registered medical practitioner in the service of the Government and includes a registered medical practitioner designated as such for the purposes of this Act;

“Minister” means the Minister with the responsibility for national security;

“organised criminal group” means a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more of the offences established under Part III, in order to obtain, directly or indirectly, a financial or other material benefit;

“Protection Order” means an order made under section 48 for the care and protection of a trafficked person;

“receiving country” means any country into which a trafficked person is brought as part of an act of trafficking in persons;

“relevant official” means an immigration officer, labour inspector, social worker, social service professional, medical practitioner, nurse or teacher;

“removal of body parts” means the removal or trade in any organ or other body part from a living person or the body of a person who has been killed for the sole purpose of removing the organ;

“servitude” means a condition in which the labour or service of a person is provided or obtained through threats of harm to that person or another person, or through any scheme, plan or pattern intended to cause the person to believe that, if he does not perform the labour or provide the service in question, he or another person would suffer harm;

“sexual exploitation” means compelling the participation of a person in—

- (a) prostitution;
- (b) the production of child pornography or other pornographic material;
- (c) any other sexual activity,

as a result of being subjected to threat, coercion, abduction, the effect of drugs, force, abuse of authority or fraud;

“slavery” means reducing a person by any means to a state of submitting to the control of another person as if that other person were the owner of the first-mentioned person;

“trafficked person” means a person who is the victim or object of trafficking in persons;

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

“travel document” means any document, such as a passport, a visa, a tourist card, an airline ticket or a birth certificate or certificate of citizenship, that can be used for travel between countries and includes a document under the laws of a country to establish identity in that country; and

“UN Protocol to Prevent, Suppress and Punish Trafficking in Persons” means the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, Supplementing the United Nations Convention against Transnational Organised Crime, 2000.

### **3. Objects of Act**

The objects of this Act are—

- (a) to give effect to the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons;

- (b) to provide for the prosecution of persons involved in trafficking in persons and related offences and for appropriate penalties;
- (c) to provide for the prevention of trafficking in persons and for the protection of and assistance to trafficked persons;
- (d) to provide for effective enforcement measures; and
- (e) generally to combat trafficking in persons.

#### **4. Scope of application**

The offences under this Act apply whether or not the conduct constituting the offence took place inside or outside Antigua and Barbuda, if—

- (a) Antigua and Barbuda is the receiving country or the exploitation occurs in Antigua and Barbuda; or
- (b) the receiving country is not Antigua and Barbuda but the trafficking in persons starts in or transits, Antigua and Barbuda.

#### **5. Extension of Act to extra territorial offences**

(1) An offence under this Act extends to and may be dealt with as if it had been committed within Antigua and Barbuda if it is committed—

- (a) by a citizen or a permanent resident of Antigua and Barbuda in any place outside and beyond the territorial limits of Antigua and Barbuda;
- (b) on the high seas on board a ship or on an aircraft registered in or required to be registered in Antigua and Barbuda; or
- (c) by a citizen or permanent resident of Antigua and Barbuda on the high seas on board a ship or on an aircraft.

(2) For the purposes of this Act, a court in Antigua and Barbuda has jurisdiction whether or not the act constituting an offence under this Act, constitutes an offence at the place of its commission.

#### **6. Prevailing law**

(1) The provisions of this Act are in addition to, and not in derogation of, the provisions of any other written law relating to trafficking in persons.

(2) In the event of any conflict or inconsistency between the provisions of this Act and those of

any other written law, the provisions of this Act shall prevail and the conflicting or inconsistent provisions of such other written law shall, to the extent of the conflict or inconsistency, be deemed to be superseded.

## **PART II**

### **TRAFFICKING IN PERSONS PREVENTION COMMITTEE**

#### **7. Trafficking in Persons Prevention Committee**

(1) There is established for the purposes of this Act, a committee to be known as the Trafficking in Persons Prevention Committee.

(2) The Committee shall consist of the following members—

- (a) the Permanent Secretary of the Ministry responsible for national security, who shall be the Chairperson;
- (b) the Permanent Secretary of the Ministry responsible for foreign affairs, or his representative;
- (c) the Permanent Secretary of the Ministry responsible for women and children or his representative;
- (d) the Permanent Secretary of the Ministry responsible for labour, or his representative;
- (e) the Attorney General of Antigua and Barbuda, or his representative;
- (f) the Director of the department responsible for Gender Affairs;
- (g) the Commissioner of Police, or his representative;
- (h) the Chief Immigration Officer, or his representative;
- (i) the Comptroller of Customs, or his representative;
- (j) a representative of the Coast Guard;
- (k) the Director of the Office of National Drug Control Policy or his representative;
- (l) not more than two persons nominated by non-governmental organizations or other relevant organizations having appropriate experience, knowledge and expertise in problems and on issues relating to trafficking in persons including the protection and support of trafficked persons, to be appointed by the Minister.

(3) Each member of the Committee appointed under paragraph (2)(k) shall, unless he sooner resigns, hold office for a period not exceeding two years and is eligible for re-appointment.

(4) A member of the Committee appointed under paragraph (2)(k) may, at any time resign his office, by giving notice in writing to the Minister.

(5) The members of the Committee specified under subsection (2)(k) may be paid such allowances as the Minister may determine.

### **8. Functions and powers of Committee**

(1) The Committee shall perform the functions of coordinating the implementation of this Act.

(2) Without prejudice to the generality of subsection (1), it shall be the responsibility of the Committee to—

- (a) formulate policies and programmes to prevent and suppress trafficking in persons, including programmes in rendering assistance to trafficked persons;
- (b) formulate protective programmes for trafficked persons;
- (c) coordinate the formulation of policies on issues of trafficking in persons with relevant government agencies or bodies and non-governmental organizations;
- (d) monitor the immigration and emigration patterns in Antigua and Barbuda for evidence of trafficking in persons and to secure the prompt response of the relevant government agencies or bodies, and non-governmental organizations to problems on trafficking in persons brought to their attention;
- (e) formulate and coordinate measures to inform and educate the public, including potential trafficked persons, on the causes and consequences of trafficking in persons;
- (f) make recommendations to the Minister on all aspects of the prevention and suppression of trafficking in persons;
- (g) advise the Minister on the issues of trafficking in persons including developments at the international level against the act of trafficking in persons;
- (h) cooperate and coordinate with international bodies and other similar regional bodies or committees in relation to the problems and issues of trafficking in persons, including support and protection of trafficked persons;
- (i) establish an integrated information system to facilitate the effective monitoring and

implementation of this Act by collating and analysing the information obtained with the view to determining, among others—

- (i) from which countries persons are being trafficked to the Antigua and Barbuda;
  - (ii) to which countries persons are being trafficked from Antigua and Barbuda;
  - (iii) the nationality of the persons transiting Antigua and Barbuda and the countries to which they are being trafficked;
  - (iv) the number of trafficked persons that have been repatriated to Antigua and Barbuda and the countries to which they were trafficked;
  - (v) the purposes for which persons who have been identified as trafficked persons have been trafficked;
  - (vi) the profiles of the traffickers and their victims, including gender, age and nationality;
  - (vii) the routes used by traffickers to cross the borders of Antigua and Barbuda;
  - (viii) the routes used by traffickers to enter the countries to which persons were trafficked from Antigua and Barbuda;
  - (ix) the methods used by traffickers to recruit and transport their victims;
  - (x) the types of travel documents traffickers and trafficked persons have used or attempted to use to cross the borders of Antigua and Barbuda and to enter the countries to which persons were trafficked from Antigua and Barbuda and how these documents were obtained;
  - (xi) the number of prosecutions, convictions and the form of sentences imposed pursuant to this Act;
  - (xii) the number of trafficked persons awarded compensation under section 60; and
  - (xiii) the number of cases where the courts refrained from providing compensation orders and the reasons for doing so; and
- (j) perform any other functions directed by the Minister for the proper implementation of this Act.

(3) In furtherance to subsection (2)(e), the Committee shall and where appropriate, after consultation with relevant non-governmental organisations, establish public awareness programmes or other measures for the prevention of trafficking in persons designed to—

- (a) inform and educate members of the public, especially those who are vulnerable or at risk of becoming trafficked persons, foreigners who apply for visas or permits for Antigua and Barbuda who may be trafficked persons, and citizens or permanent residents of Antigua and Barbuda who depart for work abroad, on issues relating to trafficking in persons, including—
  - (i) common recruitment techniques used by traffickers;
  - (ii) tactics used to keep trafficked persons in exploitative situations;
  - (iii) the forms of abuse to which trafficked persons may be subjected; and
  - (iv) organisations, institutions or law enforcement agencies that may be approached for assistance or information;
- (b) inform and educate trafficked persons on—
  - (i) their rights as trafficked persons;
  - (ii) legal or other measures in place to ensure their safety, recovery and repatriation; and
  - (iii) organisations, institutions or law enforcement agencies that may be approached for assistance or information; and
- (c) discourage the demand for and the supply of trafficked persons that fosters the exploitation of those persons, especially women and children.

(4) Any information which identifies a trafficked person shall be kept confidential by members of the Committee.

(5) The Committee shall have all such powers as may be necessary for, or in connection with, or incidental to, the performance of its functions under this Act.

### **9. Power of Minister to issue directions**

The Minister may, from time to time, give the Committee general directions not inconsistent with this Act as to the performance of the functions and powers of the Committee and the Committee shall give effect to such directions.

### **10. Meetings of Committee**

(1) The Committee shall meet as often as may be necessary for the performance of its functions at such time and place as the Chairperson may determine.

- (2) Seven members, including the Chairperson, shall form the quorum of a meeting of the Committee.
- (3) The Chairperson shall preside over all meetings of the Committee.
- (4) If the Chairperson is unable for any reason to preside at a meeting of the Committee, the meeting shall be presided over by a member elected from amongst the members present.
- (5) The Committee may invite a person to attend any meeting or deliberation of the Committee for the purpose of advising it on any matter under discussion, but that person shall not be entitled to vote at the meeting or deliberation.
- (6) A person invited to attend any meeting or deliberation of the Committee under subsection (5) may be paid such allowance as the Minister may determine.
- (7) The Chairperson shall have a deliberative vote and shall, in the event of an equality of votes, have a casting vote.
- (8) The Committee may make rules for regulating its meetings and proceedings.

#### **11. Establishment of task forces**

- (1) The Committee may establish such task forces as it deems necessary or expedient to assist it in the performance of its functions and the exercise of its powers under this Act and may at any time, discontinue or alter the constitution of a task force.
- (2) Members of a task force established under subsection (1) may be appointed from amongst members of the Committee or such other persons as the Committee thinks fit and shall hold office for such term as may be specified in his letter of appointment and is eligible for reappointment.
- (3) A task force established under subsection (1)—
  - (a) shall be chaired by a member of the Committee other than the Chairperson or a member specified under section 7(2)(k);
  - (b) shall conform to and act in accordance with any direction given to it by the Committee; and
  - (c) subject to paragraph (b), may determine its own procedure.
- (4) Persons appointed as members of a task force, other than members of the Committee, may be paid such allowance as the Minister may determine.
- (5) The Committee may revoke the appointment of any member of a task force without assigning any reason therefor.



(6) A member of a task force may, at any time, resign by giving notice in writing to the Chairperson of the task force.

(7) A task force shall hold its meetings at such times and places as the Chairperson of the Task force may determine.

(8) A task force may invite a person to attend any of its meetings for the purpose of advising it on any matter under discussion but that person shall not be entitled to vote at the meeting.

(9) Any information which identifies a trafficked person shall be kept confidential by members of a task force and every person invited to a meeting of the task force under subsection (8).

#### **12. Secretary of the Committee and other officers**

The Minister shall appoint a public officer to be the Secretary of the Committee and may appoint such other public officers as may be necessary to assist the Committee.

### **PART III**

#### **TRAFFICKING IN PERSONS OFFENCES, IMMUNITY, ETC.**

#### **13. Offence of trafficking in persons**

A person who engages in trafficking in persons commits an offence and, subject to sections 15 and 16, is liable on summary conviction to a fine not exceeding four hundred thousand dollars or to imprisonment for a term not exceeding twenty years or to both.

#### **14. Directing, conspiring, inciting etc., the commission of trafficking in person**

A person who—

- (a) performs an act which is aimed at committing the offence of trafficking in persons;
- (b) incites, instigates, commands, directs, aids, advises, recruits, encourages or procures another person to commit the offence of trafficking in persons; or
- (c) conspires with another person to commit the offence of trafficking in persons or to aid in the commission thereof;

commits an offence and, subject to sections 15 and 16, is liable on summary conviction to a fine not exceeding four hundred thousand dollars or to imprisonment for a term not exceeding twenty years or to both.

**15. Special penalty where trafficked person is a child**

(1) Where an offence under section 13 or 14 is committed in relation to a child, subject to subsections (2) and (3) and section 16, the person convicted for that offence is liable on summary conviction to a fine not exceeding six hundred thousand dollars or to imprisonment for a term not exceeding twenty-five years or to both.

(2) Where an offence under section 13 or 14 is committed for the sexual exploitation of a child, subject to section 16, the person convicted for that offence is liable on summary conviction to a fine not exceeding one million dollars or to imprisonment for term not exceeding twenty-five years or to both.

(3) A person who—

- (a) sexually exploits a child which he knows or ought reasonably to know is a trafficked child;
- (b) takes, detains or restricts the personal liberty of a child for the purpose of sexual exploitation;

commits an offence and is liable on summary conviction to a fine not exceeding one million dollars or to imprisonment for term not exceeding twenty-five years or to both.

**16. Aggravating circumstances**

A person convicted of an offence under section 13 or 14 is liable on summary conviction to a fine not exceeding one million dollars or to imprisonment for thirty years or to both if any of the following circumstances is present—

- (a) the offence involves serious injury or death of the trafficked person or another person, including death as a result of suicide;
- (b) the offence involves a victim who is particularly vulnerable, including a pregnant woman;
- (c) the offence exposed the trafficked person to a life-threatening illness;
- (d) the trafficked person is physically or mentally handicapped;
- (e) the offence involves more than one trafficked person;
- (f) the offence was committed as part of the activity of an organized criminal group;
- (g) drugs, medications or weapons were used in the commission of the offence;
- (h) the trafficked person is a child who was adopted for the purpose of trafficking;

- (i) the offender has been previously convicted for the same or similar offences;
- (j) the convicted person is a public officer and the offence was committed when the officer was purporting to act officially;
- (k) the offender is a spouse or the conjugal partner of the trafficked person;
- (l) the offender is in a position of responsibility or trust in relation to the trafficked person;
- (m) the offender is in a position of authority concerning the trafficked person who is a child;  
or
- (n) the offence was committed by means of abuse the vulnerability of the trafficked person.

### **17. Debt bondage**

A person who intentionally engages in conduct that causes another person to enter into debt bondage commits an offence and is liable on summary conviction to a fine not exceeding four hundred thousand dollars or to imprisonment for a term not exceeding twenty years or to both.

### **18. Using services of trafficked person**

- (1) A person commits an offence if he intentionally—
  - (a) benefits, financially or otherwise, from the services of a trafficked person or of a person he knows or ought reasonably to have known to be a trafficked person; or
  - (b) uses or enables another person to use the services of a trafficked person or of a person he knows or ought reasonably to have known to be a trafficked person.

(2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding four hundred thousand dollars or to imprisonment for a term not exceeding twenty years or to both.

### **19. Consent irrelevant**

In a prosecution for an offence under this Part, once any of the means or circumstances set out in the definition of “trafficking in persons” is established, it shall be irrelevant that—

- (a) a child who is a trafficked person, or a person having control or authority over a child who is a trafficked person, has consented to the intended exploitation of that child or that the intended exploitation did not occur;
- (b) an adult person who is a trafficked person has consented to the intended exploitation or that the intended exploitation did not occur.

**20. Past sexual behaviour irrelevant**

The past sexual behaviour of a trafficked person is irrelevant and inadmissible for the purpose of proving that the trafficked person was engaged in other sexual behaviour or to prove the trafficked person's sexual predisposition.

**21. Fraudulent travel or identity documents**

A person who makes, obtains, gives, sells or possesses a fraudulent travel or identity document for the purpose of facilitating trafficking in persons commits an offence and is liable on summary conviction to a fine not exceeding four hundred thousand dollars or to imprisonment for a term not exceeding twenty years or to both.

**22. Destruction, confiscation, possession, concealment of or tampering with documents**

A person who intentionally destroys, confiscates, possesses, conceals or tampers with any actual or purported identification document or travel document of a trafficked person in furtherance of the offence of trafficking in persons commits an offence and is liable on summary conviction to a fine not exceeding four hundred thousand dollars or to imprisonment for a term not exceeding twenty years or to both.

**23. Recruiting persons**

A person who knowingly recruits, or agrees to recruit, another person to participate in the commission of the offence of trafficking in persons, commits an offence and is liable on summary conviction to a fine not exceeding four hundred thousand dollars or to imprisonment for a term not exceeding twenty years or to both.

**24. Providing facilities in support of trafficking in persons**

(1) A person who—

- (a) intentionally leases or subleases or allows to be used any room, house, building or establishment he knows or ought reasonably to have known will be used for facilitating or promoting trafficking in persons; or
- (b) advertises, publishes, prints, broadcasts, distributes or causes the advertisement, publication, printing, broadcast or distribution of information that facilitates or promotes trafficking in persons by any means, including the use of the Internet or other information technology;

commits an offence and is liable on summary conviction to a fine not exceeding four hundred thousand dollars or to imprisonment for a term not exceeding twenty years.

(2) An Internet service provider operating in Antigua and Barbuda—

- (a) shall take all reasonable steps to prevent the use of its service for the hosting of information referred to in subsection (1)(b);
- (b) that has knowledge that an Internet address on its server contains information referred to in subsection (1)(b) shall—
  - (i) without delay report that Internet address, as well as the particulars of the person maintaining or in any manner contributing to that Internet address, to the Commissioner of Police;
  - (ii) take all reasonable steps to preserve any evidence for purposes of investigation and prosecution by the relevant authorities; and
  - (iii) without delay take all reasonable steps to prevent access to that Internet address by any person.

(3) An Internet service provider who fails to comply with the provisions of subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding five years.

## **25. Providing services for purposes of trafficking in persons**

A person who, directly or indirectly, provides or makes available financial services or facilities -

- (a) intending that the services or facilities will be used, or knowing or having reasonable grounds to believe that the services or facilities will be used, in whole or in part, for the purpose of committing or facilitating the commission of trafficking in persons, or for the purpose of benefiting a person who is committing or facilitating the commission of trafficking in persons; or
- (b) knowing or having reasonable grounds to believe that, in whole or in any part, the services or facilities will be used by or will benefit a person involved in an act of trafficking in persons;

commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars or to imprisonment for a term not exceeding twenty years.

## **26. Harboursing persons**

(1) A person who—

- (a) harbours another person; or

- (b) prevents, hinders or interferes with the arrest of another person;

knowing or having reason to believe that such person has committed or is planning or is likely to commit an act of trafficking in persons, commits an offence and is liable on summary conviction to a fine of four hundred thousand dollars or to imprisonment for a term not exceeding twenty years.

(2) In this section, “harbour” means supplying a person with shelter, food, drink, money or clothes, arms, ammunition or means of conveyance, or assisting a person in any way to evade apprehension.

### **27. Obligation of owner, operator or master of conveyance**

(1) The owner, operator or master of a conveyance that engages in the transportation of goods or people for commercial gain shall ensure that every person travelling on board is in possession of all travel documents required for lawful entry into or exit from Antigua and Barbuda.

(2) An owner, operator or master of a conveyance mentioned in subsection (1), commits an offence if he knowingly permits the conveyance to be used for the purpose of—

- (a) bringing a person into Antigua and Barbuda without the travel documents required for the lawful entry of that person into Antigua and Barbuda;
- (b) taking a person out of Antigua and Barbuda without the travel documents required for the lawful departure of that person from Antigua and Barbuda; or
- (c) committing an act of trafficking in persons.

(3) A person commits an offence if, having reasonable grounds to believe that a conveyance is to be used for the purpose of—

- (a) bringing a person into Antigua and Barbuda without the travel documents required for the lawful entry of that person into Antigua and Barbuda;
- (b) taking a person out of Antigua and Barbuda without the travel documents required for the lawful departure of that person from Antigua and Barbuda; or
- (c) committing an act of trafficking in persons,

he permits the conveyance to be so used.

(4) A person who commits an offence under subsection (2) or (3) is liable on summary conviction—

- (a) in the case of an individual, to a fine not exceeding four hundred thousand dollars or to imprisonment for a term not exceeding twenty years; or

(b) in the case of a body corporate, to a fine not exceeding one million dollars.

(5) In proceedings for an offence under this section, it shall be a defence for a person charged to prove that—

- (a) he had reasonable grounds to believe that the travel documents of the person travelling on board were travel documents required for lawful entry into or lawful exit from Antigua and Barbuda by that person;
- (b) the person travelling on board possessed travel documents required for lawful entry into or lawful exit from Antigua and Barbuda when that person boarded, or last boarded, the conveyance to travel to or from Antigua or Barbuda; or
- (c) the entry of the person into Antigua and Barbuda occurred only because of illness or injury to that person, stress of weather or any other circumstances beyond the control of the person charged.

(6) A person convicted of an offence under this section shall be liable to pay the expenses incurred or reasonably expected to be incurred in connection with the trafficked person's detention in, and removal from Antigua and Barbuda.

### **28. Immunity from criminal prosecution**

A trafficked person shall not be liable to criminal prosecution in respect of—

- (a) his illegal entry into Antigua and Barbuda;
- (b) his period of unlawful residence in Antigua and Barbuda; or
- (c) his procurement or possession of any fraudulent travel or identity document which he obtained, or with which he was supplied, for the purpose of entering the receiving country;

where such acts are the direct consequence of the offence of trafficking in persons committed against him.

## **PART IV**

### **ENFORCEMENT**

### **29. Enforcement officers**

(1) The following persons shall be enforcement officers for the purposes of this Act and may exercise all powers of enforcement—

- (a) a police officer;
- (b) an immigration officer;
- (c) an officer of the Coast Guard; and
- (d) an officer of the Office of National Drug Control Policy.

(2) An enforcement officer when acting against a person under this Act shall declare his office and shall produce to the person against whom he is acting any authority card which has been issued to him.

### **30. Powers of investigation**

An enforcement officer shall have all the powers necessary to carry out an investigation for any offence under this Act.

### **31. Power of arrest**

(1) An enforcement officer may, without a warrant, arrest a person—

- (a) found committing or attempting to commit or abetting the commission of an offence under this Act; or
- (b) who the enforcement officer reasonably suspects of being engaged in committing or attempting to commit or abetting the commission of an offence under this Act.

(2) An enforcement officer making an arrest under subsection (1) shall, without delay, bring the person arrested to the nearest police station, and thereafter the person shall be dealt with in accordance with the law relating to criminal procedure for the time being in force.

### **32. Search and seizure with warrant**

(1) If it appears to a Magistrate, upon written information on oath and after such enquiry as the Magistrate considers necessary, that there is reasonable cause to believe that—

- (a) any premises or conveyance has been used or is about to be used for; or
- (b) there is in any premises or conveyance evidence necessary to the conduct of an investigation into;

the commission of an offence under this Act, the Magistrate may issue a warrant authorising the police officer named therein, at any reasonable time, by day or by night, to enter the premises or conveyance.



(2) A warrant issued under subsection (1) may authorise the police officer to—

- (a) enter and search the premises or conveyance for any evidence of or evidence relating to the commission of such offence;
- (b) seize or remove from the premises or conveyance, any personal property, book, record, report or document, or any human organ, or any other thing that is reasonably believed to be evidence of the commission of such offence; and
- (c) make copies of, or take extracts from any book, record, report or document found in the premises or conveyance.

(3) A police officer entering any premises or conveyance under this section may take with him such other persons or equipment as may appear to him to be necessary.

(4) A police officer, in the exercise of his powers under this section, may if necessary—

- (a) break open any outer or inner door of the premises or conveyance or any obstruction to the premises or conveyance in order to effect entry into the premises or conveyance;
- (b) remove by force any obstruction to entry, search, seizure or removal as he is empowered to effect under this section; and
- (c) detain a person found in the premises or conveyance until the search has been completed.

(5) A warrant issued under this section shall include—

- (a) a statement of the purpose for which the warrant is issued, and a reference to the nature of the offence;
- (b) a description of the kind of property to be seized; and
- (c) the time, not being later than fourteen days from date of issue, when the warrant expires.

(6) Where, by reason of its nature, size or amount, it is not practicable to remove any thing seized under this section, the enforcement officer may, by any means, seal that thing in the premises or conveyance in which it is found.

(7) A person who, without lawful authority, breaks, tampers with or damages the seal referred to in subsection (6) or removes anything under seal, or attempts to do so, commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years.

(8) A warrant shall not be issued under this section unless the informant or some other person has

given, on oath, such further information as the Magistrate may require concerning the grounds on which the of the warrant is sought.

### **33. Search and seizure without warrant**

(1) Where a police officer has reasonable grounds to believe that by reason of delay in obtaining a search warrant under section 32, an investigation into the commission of an offence under this Act would be adversely affected or evidence of the commission of an offence under this Act is likely to be tampered with, removed, damaged or destroyed, he may, without warrant and with such assistance and force as is necessary—

- (a) enter and search any premises;
- (b) stop and search any conveyance or person;
- (c) seize and detain such conveyance, personal property, book, record, report or document or human organ or any other thing found in the premises or conveyance; or
- (d) inspect, make copies of or take extracts from any book, record, report or document found in the premises or conveyance.

(2) In exercising his powers under this section, a police officer shall have all the powers conferred upon him under subsections 32 (3), (4) and (6).

### **34. Access to computerized data**

(1) A police officer conducting a search under this Act shall be given access to computerized data whether stored in a computer or otherwise.

(2) For the purpose of subsection (1), the police officer shall be provided with the necessary password, encryption code, decryption code, software or hardware or any other means required for his access to enable comprehension of the computerized data.

(3) A person who fails to give a police officer conducting a search under this Act access to computerized data commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years.

### **35. List of things seized**

(1) Except as provided in subsection (2), where any conveyance, personal property, book, record, report or document or any human organ is seized under this Part, the police officer shall prepare a list of the things seized and immediately deliver a copy signed by him to the occupier of the premises or the owner of the conveyance which has been searched, or to his agent or servant, at the premises or conveyance.

(2) In the case of unoccupied premises, the police officer shall, whenever possible, post a list of the things seized conspicuously at or on the place or premises.

(3) Notwithstanding subsection (2), a person with an interest in any premises or conveyance searched pursuant to this Part is entitled, on request, to receive from the police officer a copy of the list prepared pursuant to subsection (1).

### **36. Power to examine persons**

(1) An enforcement officer may, by notice in writing, require a person who he believes to be acquainted with the facts and circumstances of an investigation under this Act to—

- (a) attend before him for examination;
- (b) produce to him any personal property, record, report or document; or
- (c) furnish him with a written statement made on oath or affirmation setting out such information as he may require.

(2) A person examined under subsection (1) shall be legally bound to answer all questions relating to the investigation put to him by the enforcement officer, but he may refuse to answer any question, produce any thing or furnish any written statement, the answer to which or the production or furnishing of which may expose him to a criminal charge, a penalty or forfeiture of property.

(3) An enforcement officer examining a person under subsection (1) shall first inform that person of the provisions of subsection (2).

### **37. Forfeiture of property on conviction**

(1) The property of a person convicted of the offence of trafficking in person that was used or obtained in the course of the offence and any benefit gained from the proceeds of the offence is liable to be forfeited to the Crown.

(2) A conveyance, personal property, book, record, report or document seized in the exercise of any power conferred under this Act is liable to be forfeited to the Crown.

(3) Any human organ seized in the exercise of any power conferred under this Act is liable to be forfeited to the Crown and destroyed in the manner prescribed.

(4) Where a person is convicted of the offence of trafficking in person, the court may, on application by the Director of Public Prosecutions, order that anything liable to forfeiture under subsection (1) or (2) be forfeited to the Crown.

(5) The court shall not make a forfeiture order in relation to subsection (2) unless it is satisfied that—

- (a) the person convicted owns the property seized; or
- (b) the owner permitted the property to be used in the commission of the offence of trafficking in person.

### **38. Application for forfeiture order**

(1) The Director of Public Prosecutions shall, before applying for an order of forfeiture under section 37(3), give to any person who, to his knowledge, is the owner of anything liable to forfeiture under section 37(1) or (2) notice of his intention to apply for a forfeiture order under section 37(3) and the grounds therefor.

(2) Where the Director of Public Prosecutions is unable to ascertain the owner of or any person having an interest in the property in relation to which he intends to apply for a forfeiture order, he shall, no less than 30 days before making the application for a forfeiture order, cause a notice to be published in a newspaper of general circulation in Antigua and Barbuda, regarding the intention to apply for a forfeiture order.

(3) Any human organ seized under this Act shall be deemed to be forfeited and destroyed in the manner prescribed, whether or not there is a conviction.

### **39. Procedure where no prosecution**

(1) Where there is no prosecution with regard to the offence of trafficking in person under this Act, the police officer shall—

- (a) serve a notice in writing to the last known address of the person from whom the conveyance, personal property, book, record, report, document or other thing was seized, specifying that—
  - (i) there is no prosecution in respect of such conveyance, personal property, book, record, report or document; and
  - (ii) such conveyance, personal property, book, record, report, document or other thing will be forfeited at the expiration of 30 days from the date of service of the notice unless a claim is made by the person from whom the conveyance, personal property, book, record, report or document was seized; and
- (b) cause a notice to be published in a newspaper of general circulation in Antigua and Barbuda, specifying—
  - (i) the property that was seized;
  - (ii) that there is no prosecution in respect of such conveyance, personal property, book, record, report or document; and

- (iii) that such conveyance, personal property, book, record, report, document or other thing will be forfeited at the expiration of 30 days from that date of publication of the notice unless a claim is made by a person, other than the person from whom the thing was seized, asserting that he is the owner of the conveyance, personal property, book, record, report or document was seized.

(2) Where a claim under subsection (1) (a) is made, the police officer shall, unless there is a claim under subsection (1) (b), release the property seized to the person from whom it was seized, on the expiration of the period specified in subsection (1) (b).

(3) Where a claim under subsection (1) (b) is made, the police officer shall, upon receipt of that claim, refer the matter to the court for a determination as to entitlement.

(4) the court shall issue a summons requiring the person asserting that he is the owner of the thing seized and the person from whom it was seized to appear before the court, and upon their appearance or default to appear, due service of the summons being proved, the court shall proceed to the examination of the matter and order the release of such thing to the person entitled to it.

#### **40. Disposal of forfeited property**

Anything forfeited or deemed to be forfeited under this Act shall be disposed of in such manner as the Attorney-General deems fit.

#### **41. Cost of holding conveyance, personal property, etc., seized**

Where any thing seized under this Act is held in the custody of the police officer pending completion of any proceedings in respect of an offence under this Act, the cost of holding that thing in custody shall, in the event of a person being found guilty of an offence, be a civil debt due to the Crown by such person and shall be recoverable accordingly.

#### **42. No costs or damages arising from entry, search or seizure to be recoverable**

A person shall not, in respect of any entry or search, or seizure of any thing in the exercise of any power conferred by this Act, be entitled to the costs of such entry, search, or seizure or to any damages or other relief unless such entry, search or seizure was made without reasonable cause.

#### **43. Obstruction of enforcement officer**

A person who obstructs, impedes, interferes or fails to comply with any lawful demand of an enforcement officer in the performance of his functions under this Act commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years.

#### **44. Tipping-off**

(1) A person who—

- (a) knows or has reasonable grounds to suspect that an enforcement officer is acting, or is proposing to act, in connection with an investigation which is being, or is about to be, conducted under or for the purposes of this Act; and
- (b) discloses to any other person information or any other matter which is likely to prejudice that investigation or proposed investigation;

commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years.

(2) A person who—

- (a) knows or has reasonable grounds to suspect that a disclosure has been made to an enforcement officer under this Act; and
- (b) discloses to any other person information or any other matter which is likely to prejudice an investigation which might be conducted following the disclosure;

commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years.

(3) Nothing in subsection (1) or (2) makes it an offence for an attorney-at-law or his employee to disclose any information or other matter—

- (a) to his client in connection with the giving of advice to the client in the course and for the purpose of the professional employment of the attorney-at-law; or
- (b) to a person in contemplation of, or in connection with and for the purpose of, any legal proceedings.

(4) In proceedings against a person for an offence under this section, it is a defence to prove that—

- (a) he did not know or suspect that the disclosure made under subsection (2) was likely to prejudice the investigation; or
- (b) he had lawful authority or reasonable excuse for making the disclosure.

#### **45. Institution of proceedings**

Notwithstanding any other written law prescribing the period within which summary proceedings

may be commenced, proceedings for an offence under this Act or the regulations may be commenced within five years from the date of the commission of the offence.

## **PART V**

### **IDENTIFICATION AND PROTECTION OF VICTIMS OF TRAFFICKING**

#### **46. Place of refuge**

(1) The Minister may, by notification in the *Gazette*, declare any house, building or place, or any part thereof, to be a place of refuge for the care and protection of trafficked persons.

(2) The Minister may, from time to time, direct the separation of different categories of trafficked persons, among others, according to age and gender either at the same place of refuge or at different places of refuge.

#### **47. Taking a person into temporary custody**

(1) A police officer may, on reasonable suspicion that a person who is found or rescued is a trafficked person, take that person into temporary custody and produce him before a Magistrate within twenty-four hours, for the purpose of obtaining an interim protection order.

(2) The Magistrate may make an interim protection order for the person to be placed at a place of refuge for a period of fourteen days for the purpose of carrying out an investigation and enquiry under section 48.

(3) The police officer shall, upon obtaining the order issued under subsection (2), surrender the person to the place of refuge specified in the order.

#### **48. Protection Order**

(1) Where an interim protection order is made under subsection 47(2), the police officer shall, within fourteen days from the date of such order, investigate into the circumstances of the person's case for the purpose of determining whether the person is a trafficked person under this Act.

(2) Upon completion of the investigation and enquiry under subsection (1), the police officer shall prepare a report and produce the report together with the person before a Magistrate for the purpose of satisfying the Magistrate that such person is a trafficked person under this Act.

(3) Where the Magistrate, having read the report produced under subsection (2), is satisfied that the person brought before him—

- (a) is a trafficked person and in need of care and protection, the Magistrate may make a Protection Order—

- (i) in the case of a trafficked person who is a citizen or permanent resident of Antigua and Barbuda, ordering that such trafficked person be placed at a place of refuge for a period not exceeding one year from the date of the order; or
  - (ii) in the case of a trafficked person who is not a citizen or permanent resident of Antigua and Barbuda, ordering that such trafficked person be placed in a place of refuge for a period not exceeding three months from the date of the order, and thereafter to release him to an immigration officer for necessary action in accordance with the Immigration and Passports Act, Cap. 208 and Part VI of this Act.
- (b) is not a trafficked person, the Magistrate may—
- (i) in the case of a person who is a citizen or permanent resident of Antigua and Barbuda, order that person to be released; or
  - (ii) in the case of a person who is not a citizen or permanent resident of Antigua and Barbuda, order that person to be released to an immigration officer for necessary action in accordance with the Immigration and Passports Act, Cap. 208.

(4) The Magistrate may, on the application of a police officer extend or revoke the Protection Order made under this section.

(5) Notwithstanding subsection (4), an extension of a Protection Order may be granted only for any exceptional circumstances as determined by the Magistrate.

(6) Proceedings under this section are without prejudice to the power to conduct an investigation into the commission of an offence or the institution of charges for an offence under this Act.

#### **49. Release of trafficked person**

(1) Upon revocation of a Protection Order or expiry of the period specified in a Protection Order, the person in charge of the place of refuge shall—

- (a) in the case of a trafficked person who is a citizen or permanent resident of Antigua and Barbuda, release that person; or
- (b) in the case of a trafficked person who is not a citizen or permanent resident of Antigua and Barbuda, release that person to an immigration officer for necessary action in accordance with the Immigration and Passports Act, Cap. 208 and Part VI of this Act.

(2) Notwithstanding paragraph (1)(a), the court may, upon an application made by a relevant official, and being satisfied that the trafficked person is in need of further care and protection, make an order that the trafficked person be placed in the place of refuge for any further period as the Magistrate deems fit.



**50. Person in temporary custody in need of medical examination or treatment**

(1) Where a police officer who takes a person into temporary custody under subsection 47(1) is of the opinion that the person is in need of medical examination or treatment, the police officer may, instead of taking that person before a Magistrate, present him to a medical officer.

(2) Where the person taken into temporary custody under subsection 47(1) is hospitalised, the enforcement officer shall have control over, and responsibility for, the security and protection of that person.

(3) A person who is taken into temporary custody under subsection 47(1) and is presented to a medical examiner under subsection (1), shall be produced before a Magistrate—

- (a) within twenty-four hours of the completion of the examination and treatment by the medical examiner; or
- (b) if the person is hospitalised, on his discharge from the hospital.

(4) Where it is not possible to bring the person before a Magistrate within the time specified in subsection (3), the police officer shall place the person in a place of refuge until such time as he can be brought before a Magistrate.

**51. Limitation of liability**

(1) Where a person is examined or treated under section 50—

- (a) the police officer who authorises the examination or treatment;
- (b) the medical officer who examines or treats the person; and
- (c) a person acting in aid of the medical officer;

shall not incur any liability at law by reason only that the person is examined or treated pursuant to section 50.

(2) Nothing contained in subsection (1) relieves a medical officer from liability in respect of the examination or treatment of the person under section 50, which liability he would have been subject to had the examination or treatment been carried out or administered with the consent of the person having authority to consent to the examination or treatment.

**52. Escape or removal of trafficked person from place of refuge**

A trafficked person who escapes or is removed from a place of refuge without lawful authority—

- (a) may be taken into custody by a police officer and shall be brought back to the place of refuge; and

- (b) shall be kept at the place of refuge for such period as is equal to the period during which he was unlawfully at large and for the unexpired residue of his term in the Protection Order originally made by the Magistrate under section 48.

### **53. Offence of removing or helping a trafficked person to escape from place of refuge**

A person commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding five years, if he—

- (a) removes a trafficked person from a place of refuge without lawful authority;
- (b) knowingly assists or induces, directly or indirectly, a trafficked person to escape from a place of refuge; or
- (c) knowingly harbours or conceals a trafficked person who escaped from a place of refuge, or prevents him from returning to the place of refuge.

### **54. Reporting and referral of trafficked person**

(1) A relevant official who knows, suspects or has reasonable grounds to suspect, that a person is a trafficked person shall, within 24 hours, report that knowledge or suspicion to a police officer for investigation.

(2) A relevant official subsection (1) who makes a report in good faith is not liable to civil action on the basis of the report and is entitled to have his identity kept confidential if his safety is at risk as a result of the report, unless the interests of justice require otherwise.

(3) A police officer to whom a report has been made under subsection (1) may take the person into temporary custody in accordance with section 47.

(4) Nothing in subsection (1) requires a relevant official to make a report regarding a person who is an adult but who refuses to consent in writing to the report being made, unless that person—

- (a) is mentally disabled; or
- (b) is in an altered state of consciousness, including under the influence of any medicine, drug or other substance, to the extent that the person's consciousness or judgement is adversely affected.

(5) A relevant official who fails to comply with the provisions of subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding twelve months.

**55. Protection of informers**

(1) Except as provided in this section, a witness shall not be obliged or permitted to disclose the name or address of any informer, or state any matter which might lead to the discovery or identification of an informer.

(2) Where any book, document or paper which is in evidence or liable to inspection in any civil or criminal proceedings contains an entry in which an informer is named or described or which might lead to his discovery, the court before which the proceedings is had shall cause all such entries to be concealed from view or to be obliterated so far as is necessary to protect the informer from discovery or being identified.

(3) If in a trial for any offence under this Act, the court, after full enquiry into the case, is of the opinion that the informer wilfully made in his complaint a material statement which he knew or believed to be false or did not believe to be true, or if in any other proceedings the court is of the opinion that justice cannot be fully done between the parties without the discovery of the informer, the court may require the production of the original complaint, if in writing, and permit enquiry and require full disclosure concerning the informer.

(4) A person who gives the information referred to in this section, knowing that the information is false, commits an offence and is liable on summary conviction to a fine not exceeding twenty thousand dollars or to imprisonment for two years.

**56. Assistance to trafficked persons**

The Government shall, where practicable, take all appropriate steps to assist trafficked persons, including assistance in—

- (a) understanding the relevant laws of Antigua and Barbuda and their rights as trafficked persons;
- (b) obtaining any relevant documentation and information to assist with legal proceedings;
- (c) where necessary, language interpretation and translation; and
- (d) replacing or providing travel documents for the trafficked person to return to his country of citizenship or permanent residence.

**PART VI****DEPORTATION AND REPATRIATION OF VICTIMS OF TRAFFICKING****57. Summary deportation of victim of trafficking prohibited**

- (1) The summary deportation of a trafficked person is prohibited.

(2) The Minister responsible for Immigration shall establish a system to effect the return of trafficked persons to their country of citizenship or permanent residence.

(3) In establishing the system under subsection (2), the Minister shall take in account—

- (a) the safety of the trafficked person while in Antigua and Barbuda;
- (b) the safe return of the trafficked person without undue delay; and
- (c) the wishes of the trafficked person as to the country to which he should be sent, in cases where there is a choice.

#### **58. Repatriation of trafficked person from Antigua and Barbuda**

(1) The Minister responsible for Immigration shall not return a trafficked person to his country of citizenship or permanent residence or the country from where he has been trafficked without giving due consideration to—

- (a) the safety of that person during the repatriation process;
- (b) the availability and suitability of care arrangements in the country to which the person is to be returned;
- (c) the safety of the person in the country to which he is to be returned; and
- (d) the possibility that the person might be harmed, killed or trafficked again.

(2) This section does not prohibit the return of a trafficked person who is an adult to his country of citizenship or permanent residence or the country from where he has been trafficked if that person freely elects to do so.

#### **59. Repatriation of trafficked person to Antigua and Barbuda**

(1) With due regard to the safety of the person and without delay, the Minister responsible for Immigration shall—

- (a) in consultation with such Governmental departments as he considers necessary, assess the risks to the safety and life of a trafficked person who is a citizen or permanent resident of Antigua and Barbuda, if he is returned to Antigua and Barbuda;
- (b) facilitate the return to Antigua and Barbuda, a trafficked person who is a citizen or permanent resident of Antigua and Barbuda;

- (c) take such steps as are necessary for the secure reception of a trafficked person who is a citizen or permanent resident of Antigua and Barbuda at an Antigua and Barbuda port of entry; and
- (d) issue travel documents or other authorisations as may be necessary to enable a trafficked person who is a citizen or permanent resident of Antigua and Barbuda to travel to and enter Antigua and Barbuda.

(2) The Minister responsible for Immigration shall at the request of another state that is a party to the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons or to an agreement relating to trafficking in persons, verify whether a trafficked person is a citizen or permanent resident of Antigua and Barbuda and if so, the age of that person.

## **PART VII**

### **COMPENSATION**

#### **60. Compensation to trafficked person**

(1) Notwithstanding any other law, the court may, on its own accord or at the request of the trafficked person or the Director of Public Prosecutions, in addition to any sentence which it may impose in respect of an offence under this Act, order a person convicted of that offence to pay compensation to the trafficked person for—

- (a) damage to or the loss or destruction of property, including money;
- (b) physical, psychological or other injury;
- (c) being infected with a life-threatening disease;
- (d) loss of income or support;
- (e) cost of medical, psychological or physical treatment;
- (f) legal costs including attorney's fees; and
- (g) any other loss suffered that the court considers applicable,

resulting from the commission of the offence.

(2) Where the court makes an order for compensation under subsection (1), it shall also specify the time within which payment is to be made and the method of payment, including whether it is to be paid in installments or not and if it is to be paid in installments, the intervals between the payment of installments.

(3) A convicted person may apply to the court for a variation of the conditions of any order made under subsection (1) and the court may, on good cause shown by the convicted person, vary the conditions and installments according to which compensation is to be made.

(4) An order for the payment of compensation under subsection (1) has the effect of a civil judgment and the person in whose favour the compensation order was made is deemed to be the judgment creditor and the convicted person against whom the compensation order was made is deemed to be the judgment debtor.

### **61. Compensation to State**

(1) The Attorney-General may apply to the court for an order for a person convicted of an offence under this Act to pay to the Crown an amount in compensation for expenses incurred or reasonably expected to be incurred in connection with the care, medical treatment, accommodation, transportation and repatriation of a trafficked person.

(2) The court may, in addition to—

(a) any punishment which it may impose in respect of an offence under this Act; and

(b) any order for the payment of compensation to a trafficked person under section 60,

make an order for payment to the Crown by a person convicted of an offence under this Act of an amount in compensation for expenses incurred or reasonably expected to be incurred in connection with the care, medical treatment, accommodation, transportation and repatriation of the trafficked person.

(3) An order for the payment of compensation as provided for in subsection (2) has the effect of a debt due to the Crown.

## **PART VIII**

### **MISCELLANEOUS**

#### **62. Unlawful disclosure of the identity**

A person who without lawful authority discloses to another person any information acquired in the course of his official duties that enables or leads to the identification of a trafficked person or witness of trafficking in persons commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years.

#### **63. Hearing in camera**

Proceedings under this Act shall be held in camera where such proceedings involve—

- (a) a trafficked person or a witness who is a child;
- (b) a trafficked person who has been traumatized by the experience of exploitation;
- (c) a trafficked person or a witness who is mentally or physically challenged; or
- (d) a trafficked person who has been sexually assaulted.

#### **64. Right to institute civil action**

(1) A trafficked person may initiate civil proceedings to claim damages suffered by him as a result of acts specified as criminal offences under this Act.

(2) The right to pursue a civil claim for damages shall not be affected by the existence of criminal proceedings in connection with the same acts from which the civil claim derives.

(3) The immigration status or the return of the trafficked person to his home country or other absence of the trafficked person from Antigua and Barbuda shall not prevent the court from making an order under this section.

(4) A court may deny a claim for damages where an order under section 60 (1) was made in favour of the claimant and the court is satisfied that the sum ordered under that section was adequate.

#### **65. Restriction on media reporting and publication**

(1) Notwithstanding any written law to the contrary, any mass media report regarding—

- (a) any step taken in relation to a trafficked person in any proceedings whether at the pre-trial, trial or post-trial stage;
- (b) a trafficked person in respect of whom protection is accorded under Part V; or
- (c) any other matter under this Act;

shall not reveal the name or address, or include any particulars calculated to lead to the identification of a trafficked person whether as a trafficked person or as a witness to any proceedings.

(2) A photograph of—

- (a) a trafficked person in any of the matters mentioned in subsection (1); or
- (b) any other person, place or thing which may lead to the identification of the trafficked person;

shall not be published in any newspaper or magazine or transmitted through any electronic medium.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding three years.

#### **66. Admissibility of documentary evidence**

A document or other evidence obtained by an enforcement officer in the exercise of his powers under this Act, or a copy of the document or other evidence, as the case may be, shall be admissible in evidence in any proceedings under this Act, notwithstanding anything to the contrary in any written law.

#### **67. Admissibility of translation of documents**

(1) Where a document which is to be used in any proceeding against a person for an offence under this Act is in a language other than English, a translation of such document into English shall be admissible in evidence where—

- (a) the translation is accompanied by a certificate of the person who translated the document setting out that it is an accurate, faithful and true translation; and
- (b) the translation had been done by such person at the instance of an enforcement officer.

(2) Subsection (1) applies to a document which is translated, whether or not—

- (a) the document was made in or outside Antigua and Barbuda;
- (b) the translation was done in or outside Antigua and Barbuda; or
- (c) possession of the document was obtained by an enforcement officer in or outside Antigua and Barbuda.

#### **68. Indemnity**

No action, suit, prosecution or other proceedings shall lie or be brought, instituted, or maintained in any court or before any other authority against—

- (a) an enforcement officer; or
- (b) a person lawfully acting in compliance with any direction or order of an enforcement officer,



for or on account of, or in respect of, any act done or statement made or omitted to be done or made, or purporting to be done or made or omitted to be done or made, in pursuance of or in execution of, or intended pursuance of or execution of, this Act or any order in writing, direction or other thing issued under this Act if such act or statement was done or made, or was omitted to be done or made, in good faith.

#### **69. Offence by body corporate**

Where an offence against a provision of this Act has been committed by a body corporate, a person who at the time of the commission of the offence was—

- (a) a director or manager or other similar officer of the body corporate;
- (b) purporting to act in the capacity of a director or manager or other similar officer of the body corporate, or was in any manner responsible for the management of any of the affairs of such body corporate or was assisting in such management;

shall also be liable for that offence unless he proves that the offence was committed without his knowledge, consent or connivance, and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

#### **70. Offence by employee or agent**

(1) In order to establish the liability of an employer or principal for an offence under Part III, the conduct of an employee or agent of or any other person acting on behalf of the employer or principal may be attributed to the employer or principal if that person was acting—

- (a) within the scope of his employment;
- (b) within the scope of his actual or apparent authority; or
- (c) with the consent, whether express or implied, of a director, member or partner of the employer or principal.

(2) Subsection (1) does not exclude the liability of an employee or agent of or any other person acting on behalf of the employer or principal for committing the offence of trafficking in persons.

(3) The court may, upon convicting an employer or principal of an offence under Part III, make an order revoking the licence or registration of the employer or principal to operate the business in the course of which the offence was committed.

**71. Regulations**

(1) The Minister may make such regulations as are necessary or expedient to give full effect to, or for carrying out, the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), regulations may be made—

- (a) to prescribe the functions or any other matters in relation to the Committee;
- (b) to provide for an offence for any act or omission which contravenes any provision of any regulations;
- (c) to prescribe measures for the care and protection of trafficked persons at the place of refuge;
- (d) to regulate the management, administration and control of place of refuge, including provisions for the powers, duties and functions of the person in charge of place of refuge;
- (e) to provide for any matter which, under this Act, is required or permitted to be prescribed or which is necessary or expedient to be prescribed.

(3) Regulations made under the Act shall be subject to a negative resolution of the House of Representatives and may prescribe in respect of any contravention of the regulations, a penalty not exceeding ten thousand dollars or eighteen months imprisonment or both.

Passed by the House of Representatives on  
the 27th day of May, 2010.

Passed by the Senate on the 10th day  
of June, 2010.

**D. Gisele Isaac-Arrindell,**  
*Speaker.*

**Hazlyn M. Francis,**  
*President.*

**T. Thomas,**  
*Clerk to the House of Representatives.*

**T. Thomas,**  
*Clerk to the Senate.*