

ANTIGUA AND BARBUDA



**THE TRAFFICKING IN PERSONS (PREVENTION) (AMENDMENT) BILL,
2018**

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AN ACT to amend the Trafficking in Persons (Prevention) Act, No. 12 of 2010 and for incidental and connected purposes.

ENACTED by the Parliament of Antigua and Barbuda as follows:

1. Short title

This Act may be cited as the Trafficking in Persons (Prevention) (Amendment) Act, 2018.

2. Interpretation

In this Act—

“principal Act” means the Trafficking in Persons (Prevention) Act, 2010.

3. Amendment of section 13

The principal Act is amended in section 13 by repealing the entire subsections (6) and (7) and substituting the following—

“(6) A person who commits the offence of trafficking in persons or who facilitates that offence is liable on conviction on indictment to a fine not exceeding four hundred thousand dollars and to imprisonment for a term not exceeding twenty years.

(7) Every person who receives a financial or other benefit knowing that it results from the offence of trafficking in persons commits an offence and is liable on conviction on indictment to a fine not exceeding four hundred thousand dollars and to imprisonment for a term not exceeding twenty years.”

4. Amendment of section 14

The principal Act is amended in section 14 by repealing the words “is liable on indictment to a fine not exceeding not exceeding four hundred thousand dollars or to imprisonment for a term not exceeding twenty years or to both” and substituting the words “is liable on conviction on indictment to a fine not exceeding four hundred thousand dollars and to imprisonment for a term not exceeding twenty years”.

5. Repeal and substitution of section 15

The principal Act is amended in section 15 by repealing the entire section and substituting the following—

“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 conviction on indictment to a fine not exceeding six hundred thousand dollars and to imprisonment for a term not exceeding twenty-five years.

(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 conviction on indictment to a fine not exceeding one million dollars and to imprisonment for a term not exceeding twenty-five years.

(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 conviction on indictment to a fine not exceeding one million dollars and to imprisonment for a term not exceeding twenty-five years.”

6. Amendment of section 16

The principal Act is amended in section 16 by repealing the words “is liable on indictment to a fine not exceeding not exceeding one million dollars or to imprisonment for a term not exceeding thirty years or to both” and substituting the words “is liable on conviction on indictment to a fine not exceeding not exceeding one million dollars and to imprisonment for a term not exceeding thirty years”.

7. Repeal and substitution of section 17

The principal Act is amended in section 17 by repealing the entire section and substituting the following—

“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—

- (a) on summary conviction to a fine not exceeding one hundred and fifty thousand dollars and to imprisonment for a term not exceeding two years; or
- (b) on conviction on indictment to a fine not exceeding four hundred thousand dollars and to imprisonment for a term not exceeding twenty years.”

8. Amendment of section 18

The principal Act is amended in section 18 by repealing subsection (2) and substituting the following—

“(2). A person who commits an offence under subsection (1) is liable—

- (a) on summary conviction to a fine not exceeding one hundred and fifty thousand dollars and to imprisonment for a term not exceeding two years; or
- (b) on conviction on indictment to a fine not exceeding four hundred thousand dollars and to imprisonment for a term not exceeding twenty years.”

9. Repeal and substitution of section 21

The principal Act is amended in section 21 by repealing the entire section and substituting the following—

“21. Fraudulent travel or identity documents

A person who makes, obtains, gives, sells or possesses a fraudulent travel or identity document for that purpose of facilitating trafficking in persons commits an offence and is liable—

- (a) on summary conviction to a fine not exceeding one hundred and fifty thousand dollars and to imprisonment for a term not exceeding two years; or
- (b) on conviction on indictment to a fine not exceeding four hundred thousand dollars and to imprisonment for a term not exceeding twenty years.”

10. Repeal and substitution of section 22

The principal Act is amended in section 22 by repealing the entire section and substituting the following—

“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—

- (a) on summary conviction to a fine not exceeding one hundred and fifty thousand dollars and to imprisonment for a term not exceeding two years; or
- (b) on conviction on indictment to a fine not exceeding four hundred thousand dollars and to imprisonment for a term not exceeding twenty years.”.

11. Amendment of section 24

The principal Act is amended in section 24—

(a) by repealing subsection (1) and substituting the following—

“(1). A person who 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 indictment to a fine not exceeding four hundred thousand dollars and to imprisonment for a term not exceeding twenty years.

(b) by repealing the entire subsection (3) and substituting the following—

“(3). An internet service provider who fails to comply with the provisions of subsection (2) commits an offence and is liable—

(a) on summary conviction to a fine not exceeding one hundred and fifty thousand dollars and to imprisonment for a term not exceeding two years; or

(b) on conviction on indictment to a fine not exceeding two hundred and fifty thousand dollars and to imprisonment for a term not exceeding five years.”

12. Amendment of section 27

The principal Act is amended in section 27 subsection (4) by repealing all words after the word “liable” and substituting the following—

“(a) on summary conviction in the case of an individual to a fine not exceeding one hundred and fifty thousand dollars and to a term of imprisonment not exceeding two years; or

(b) on conviction on indictment in the case of an individual to a fine not exceeding four hundred thousand dollars and to imprisonment for a term not exceeding twenty years; or

- (c) on conviction on indictment in the case of a body corporate, to a fine not exceeding one million dollars and any officer, director or agent of the company who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is liable to imprisonment for a term not exceeding twenty years.”.

13. Amendment of section 32

The principal Act is amended in section 32 by repealing subsection (7) and substituting the following—

“(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 and to imprisonment for a term not exceeding two years.”

14. Amendment of section 34

The principal Act is amended in section 34 by repealing subsection (3) and substituting the following—

“(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 and to imprisonment for a term not exceeding two years.”

15. Amendment of section 43

The principal Act is amended in section 43 by repealing the rest of the paragraph after the word “liable” and substituting the following—

- “(a) on summary conviction to a fine not exceeding fifty thousand dollars and to imprisonment for a term not exceeding two years; or
- (b) on conviction on indictment to a fine not exceeding one hundred and fifty thousand dollars and to imprisonment for a term not exceeding five years.”.

16. Amendment of section 44

The principal Act is amended in section 44 subsections (1) and (2) by repealing the rest of the paragraph after the word “liable” and substituting the following—

- “(a) on summary conviction to a fine not exceeding fifty thousand dollars and to imprisonment for a term of two years; or
- (b) on conviction on indictment to a fine not exceeding one hundred and fifty thousand dollars and to imprisonment for a term not exceeding five years.”.

17. Repeal and substitution of section 53

The principal Act is amended by repealing section 53 and substituting the following—

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

A person commits an offence and is liable—

- (a) on summary conviction to a fine not exceeding fifty thousand dollars and to imprisonment for a term not exceeding two years; or
- (b) on conviction on indictment to a fine not exceeding one hundred and fifty thousand dollars and to imprisonment for a term not exceeding five years or to both, if he
 - (i) removes a trafficked person from a place of refuge without lawful authority;
 - (ii) knowingly assists or induces, directly or indirectly, a trafficked person to escape from a place of refuge; or
 - (iii) knowingly harbours or conceals a trafficked person who escaped from a place of refuge, or prevents him from returning to the place of refuge.”.

18. Amendment of section 54

The principal Act is amended in section 54 subsection (5) by repealing the rest of the paragraph after the word “liable” and substituting the following—

- “(a) on summary conviction to a fine not exceeding fifty thousand dollars and to imprisonment for a term not exceeding twelve months; or
- (b) on conviction on indictment to a fine not exceeding one hundred and fifty thousand dollars and to imprisonment for a term not exceeding three years.”.

19. Amendment of section 55

The principal Act is amended by repealing subsection (4) and substituting the following—

“(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 and to imprisonment for a term not exceeding two years.”.

20. Repeal and substitution of section 62

The principal Act is amended in section 62 by repealing the entire section and substituting the following—

“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 and to imprisonment for a term not exceeding two years.”.

21. Amendment of section 65

The principal Act is amended in section 65 by repealing the entire subsection (3) and substituting the following—

“(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 and to imprisonment for a term not exceeding three years.”.

Passed by the House of Representatives on the _____, 2018. Passed by the Senate on the _____, 2018.

Alicia Williams Grant,
President.

Gerald Watt, Q.C.,
Speaker.

Ramona Small,
Clerk to the House of Representatives.

Ramona Small,
Clerk to the Senate.

EXPLANATORY MEMORANDUM

Antigua and Barbuda emerged from a history of slavery and exploitation into an independent democratic nation that respects and upholds human rights. Trafficking in persons is an international and inhuman scourge that is akin to modern day slavery. There is no room in the ethos of the Antigua and Barbuda society for any activity that encourages slavery or slave-like circumstances.

The amendments to the Trafficking in Persons (Prevention) Act strengthen the penalties for persons convicted for the offence of trafficking in persons in order to curb all such activity that is intolerable in the Antigua and Barbuda society and brings the state of Antigua and Barbuda in line with other Caribbean Community countries and in compliance with international obligations accordingly.

This Bill seeks to amend the Trafficking in Persons (Prevention) Act 2010 by revising the existing penalty provisions and introducing more stringent penalties for offenders convicted of offences under the Trafficking in Persons (Prevention) Act by removing the

option of issuing a fine or a term of imprisonment and making it mandatory that any person convicted will receive the stricter penalty of both punishments. The current sentencing provisions under the Trafficking in Persons (Prevention) Act provides for an option of a fine or a prison term.

In clause 3, under subsections (6) and (7) of section 13 the option of a penalty of a fine or a term of imprisonment has been repealed with the mandatory imposition of that both forms of punishment will be issued to a person who violates section 13 in relation to the trafficking in of persons.

In clause 4, the option of a penalty of a fine or a term of imprisonment has been repealed with the mandatory imposition of both forms of punishments being issued to a person who violates section 13 in relation to the trafficking in of persons.

In clause 5, where a person is convicted under sections 13 or 14, the option of a penalty of a fine or a term of imprisonment has been repealed with the mandatory imposition of both forms of punishments being issued to a person who violates section 13 or 14 in relation to the situation where the trafficked person is a child.

In clause 6, where a person is convicted under sections 13 or 14 and the aggravating circumstances exist under section 16, the option of a penalty of a fine or a term of imprisonment has been repealed with the mandatory imposition of both forms of punishments being issued to a person who violates section 16.

In clause 7, the option of a penalty of a fine or a term of imprisonment has been repealed with the mandatory imposition of both forms of punishments being issued to a person who violates section 7 in relation to a person who intentionally causes another person to enter into debt bondage.

In clause 8, under section 18, where a person uses the services of a trafficked, financially or otherwise, the option of a penalty of a fine or a term of imprisonment has been repealed with the mandatory imposition of both forms of punishments being issued to a person who violates this section.

In clause 9, under section 21, where a person makes, obtains, gives, sells or possesses a fraudulent travel identity or identity document for the purpose of facilitating the trafficking of persons, the option of a penalty of a fine or a term of imprisonment has been repealed with the mandatory imposition of both forms of punishments being issued to a person who violates section 21.

In clause 10, under section 22, where a person 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, the option of a penalty of a fine or a term of imprisonment has been repealed with the mandatory imposition of both forms of punishments being issued to a person who violates section 22.

In clause 11, the option of a penalty of a fine or a term of imprisonment has been repealed with the mandatory imposition both forms of punishments being issued to a person who violates section 24 in relation to the providing of facilities in support of trafficking in persons.

In clause 12, the option of a penalty of a fine or a term of imprisonment has been repealed with the mandatory imposition of both forms of punishments being issued to a person who violates section 27 in relation to any owner, operator or master of a conveyance that engages in the transportation of goods or people for commercial gain and there are reasonable grounds to believe the conveyance was used for the purpose of bringing a person into Antigua and Barbuda without the travel documents required for the lawful entry of that person into Antigua and Barbuda, 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 committing an act of trafficking in persons.

In clause 13, under section 32, the option of a penalty of a fine or a term of imprisonment has been repealed with the mandatory imposition of both forms of punishments being issued to a person who violates this section and its circumstances where a magistrate issues a warrant regarding the search and seizure of any evidence of trafficking in of persons.

In clause 14, under section 34, where a person fails to give a police officer conducting a search under this Act access to computerized data, the option of a penalty of a fine or a term of imprisonment has been repealed with the mandatory imposition of both forms of punishments being issued such a person.

In clause 15, under section 43, where 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, the option of a penalty of a fine or a term of imprisonment has been repealed with the mandatory imposition of both forms of punishments being issued such a person.

In clause 16, under section 44, the option of a penalty of a fine or a term of imprisonment has been repealed with the mandatory imposition of both forms of punishments being issued, where a person 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 discloses to any other person, information or any other matter which is likely to prejudice that investigation or proposed investigation.

In clause 17, the option of a penalty of a fine or a term of imprisonment has been repealed with the mandatory imposition both forms of punishments being issued to a person who violates section 53 in relation to removing or helping a trafficked person to escape from a place of refuge.

In clause 18, the option of a penalty of a fine or a term of imprisonment has been repealed with the mandatory imposition both forms of punishments being issued to a person who violates section 54 in relation to the reporting and referral of a trafficked person.

In clause 19, under section 55, the option of a penalty of a fine or a term of imprisonment has been repealed with the mandatory imposition of both forms of punishments being issued, in relation to the protection of informers.

In clause 20, under section 62, the option of a penalty of a fine or a term of imprisonment has been repealed with the mandatory imposition of both forms of punishments being issued, in relation to the unlawful disclosure of the identity of a trafficked person or witness.

In clause 21, under section 65, the option of a penalty of a fine or a term of imprisonment has been repealed with the mandatory imposition of both forms of punishments being issued, in relation to the restriction on media reporting and publication.

*Hon. Steadroy C. O. Benjamin
Attorney General of Antigua and Barbuda
Minister of Justice and Legal Affairs, Public Safety and Labour*