

ANTIGUA AND BARBUDA



INTERVIEWING OF ACCUSED FOR SERIOUS CRIMES BILL, 2015

NO. OF 2015

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ANTIGUA & BARBUDA

INTERVIEWING OF ACCUSED FOR SERIOUS CRIMES BILL, 2015

NO. OF 2015

AN ACT to provide for the creation of video and audio recording of the custodial interview by law enforcement officers of a person accused of a serious crime.

ENACTED by the Parliament of Antigua and Barbuda as follows-

1. Short title and Commencement

This Bill may be cited as The Interviewing of Accused for Serious Crimes Bill, 2015.

2. Interpretation

In this Act—

“**accused**” means a person reasonably suspected of having committed a serious crime and who is under arrest for the serious crime;

“**authorising officer**” means a law enforcement officer of the status of Police Inspector or higher;

“**court**” means a court of competent jurisdiction;

“**custodial interview**” means an interview which occurs while a person is under arrest in a place of detention, involving a law enforcement officer’s questioning under caution that is reasonably likely to elicit incriminating responses beginning with a law enforcement officer’s advice of the person’s constitutional rights and ending when the interview has completely finished;

“**defendant**” in relation to any criminal proceedings, means any person charged with a serious crime to which the proceedings relate (whether or not convicted);

“**electronic recording**” means an audio, video or digital recording that is an authentic, accurate, unaltered record of a custodial interview;

“**law enforcement agency**” means the Royal Police force of Antigua and Barbuda, The Customs Department, The Immigration Department, the financial intelligence

unit of the Office of National Drug and Money Laundering Control Policy or other investigatory agency in Antigua and Barbuda of a similar standing;

“legal advisor” means a person who is admitted and entitled to practise law as a barrister, solicitor or an attorney-at-law in Antigua and Barbuda;

“Minister” means the Minister responsible for legal affairs;

“place of detention” includes a jail, police station, a holding cell, or other place where a person is held in connection with juvenile or criminal charges and where the recording equipment is located;

“remote communication” means communicating from a different location from that where the custodial interview takes place;

“serious crime” means an offence listed in the First Schedule;

“statement” means any communication made by an accused whether oral, written, electronically recorded or by sign language.

“written statement” means any statement made in writing and signed by the accused in relation to his arrest for a serious crime.

3. Application

This Act shall apply to the interviewing of persons reasonably suspected or accused of having committed a serious crime, and if the provisions of this Act conflicts with any other law, or the exercise of any power conferred by or under this Act is inconsistent with the exercise of a power conferred by or under any other law, the terms of this Act shall prevail.

4. Custodial Interview

- (1) An authorizing officer shall conduct a custodial interview of a person accused of a serious crime.
- (2) The custodial interview conducted under subsection (1) shall be electronically recorded.
- (3) Notwithstanding subsection (2) an authorizing officer may, in accordance with subparagraph 3.2 of the guidance set out in the Second Schedule, authorize the interviewing officer not to electronically record the custodial interview.

5. Procedure for custodial interview

(1) The guidance set out in the Second Schedule applies to the procedure for electronic recording of a custodial interview.

(2) If required, an interpreter may participate in the custodial interview by remote communication.

6. Recordings required if a statement provided

A written statement made by an accused must be read during a custodial interview relating to a serious crime and shall be electronically recorded

7. Presumption of Inadmissibility

Subject to sections 8 and 9, a statement made by an accused during a custodial interview that is not electronically recorded in accordance with section 4 is presumed inadmissible in any criminal proceeding brought against the accused.

8. Rebuttal of the presumption of inadmissibility

A presumption of inadmissibility under section 7 is rebutted if the court finds:

- (a) that the statement is admissible under applicable rules of evidence;
- (b) that the statement is proven beyond a reasonable doubt to have been made voluntarily and is reliable; or
- (c) the statement was made by the accused during the routine processing of the accused in response to a question put by a law enforcement officer; and
- (d) either
 - (i) a law enforcement officer made a contemporaneous record of the reason for not making an electronic recording of the statement;
 - (ii) a law enforcement officer failed in good faith to make an electronic recording of the custodial interview because the law enforcement officer failed to operate the recording equipment properly, or the recording equipment malfunctioned or stopped operating;
 - (iii) the custodial interview took place in another jurisdiction and was conducted by a law enforcement officer of that jurisdiction in compliance with the law of that jurisdiction;
 - (iv) the law enforcement officer conducting the custodial interview reasonably believed that the making of an electronic recording

- would jeopardise the safety of the accused, a law enforcement officer, another person, or the identity of a confidential informant;
- (v) the law enforcement officer conducting the custodial interview reasonably believed that the crime for which the person was taken into custody, or was being investigated or questioned was not a serious crime;
 - (vi) that the equipment to make an electronic recording of the custodial interview could not be obtained while it was reasonable to detain the accused; or
 - (vii) exigent circumstances existed which prevented the making of, or rendered it not practicable to make, an electronic recording of the custodial interview.

9. Exception

(1) An electronic recording of a statement made by an accused in relation to any matter in issue in a criminal proceeding against him may not be admitted into evidence in the proceeding if it is represented to the court that the statement was or may have been unfairly obtained or is unreliable.

(2) The court may, of its own motion or in response to the representation made by the accused that a statement was unfairly obtained, require the prosecution to prove beyond reasonable doubt that a statement was made by the defendant voluntarily, and is reliable before admitting the statement into evidence.

10. Recorded interview to be made available to the accused

(1) If an electronic recording is made of a custodial interview and the accused is charged with an offence to which the custodial interview relates, a copy of the electronic recording must be made available to the accused or the accused's legal advisor within fourteen days after the accused is charged or, if that is not practicable, as soon as practicable after that period.

(2) An accused nor his legal advisor is entitled to a transcript of the electronic recording of a custodial interview, or to a transcript of any part of such electronic recording.

(3) The court may order that a transcript of the electronic recording be provided to the accused if it is satisfied that –

- (a) the words spoken in the custodial interview cannot be understood satisfactorily; and
- (b) it is practicable to prepare a transcript.

(4) Subsections (2) and (3) do not prevent a law enforcement officer from making a transcript of an electronic recording of a custodial interview and supplying a copy of it to the accused or his legal advisor as a matter of courtesy.

11. Effect of failure of accused to mention facts when interviewed

(1) Subsection (2) applies where in any proceedings against a defendant for a serious crime, evidence is given that the defendant –

- (a) failed to mention in his custodial interview, or at any time prior to being charged, any fact relied on in his defence; or
- (b) failed to mention any fact which he could easily have being a fact which he could

(2) Any Order made under subsection (1) shall be subject to Affirmative Resolution of the House

12. Effect of charge for a matter other than a serious crime

If a defendant is charged for a matter that is not a serious crime the custodial interview is still admissible in any criminal proceedings against the defendant.

13. Amendment of Schedules

(1) The Minister may amend the First Schedule and the Second Schedule by Order published in the Gazette.

(2) an Order made under subsection (1) shall be subject to a negative resolution of the House.

14. Regulations

The Minister may make Regulations for the better administration of this Act.

FIRST SCHEDULE

SERIOUS CRIMES

(Section 2)

Money laundering;

Offence contrary to section 5 (2) or (3) or (6) or 19A or an offence under the customs law in connection with a prohibition or a restriction on importation or exportation having effect by virtue of section 4 of the Misuse of Drugs Act;

Offence contrary to section 12 or 13 or 32 of the Firearms Act;

Offence contrary to section 24 or 25 or 33 or 34 or 38 of the Larceny Act

Offence contrary to section 2 or 3 or 4 or 5 or 6 or 6 or 8 or 9 or 10 of the Malicious Damage Act;

Murder; Manslaughter;

Kidnapping;

Human Trafficking;

Rape; and

Conspiring, procuring, counselling, aiding and abetting or attempting to commit and offence listed above.

SECOND SCHEDULE

(SECTIONS 4 AND 5)

GUIDANCE FOR ELECTRONIC RECORDING OF INTERVIEWS

1. General

1.1 This Guidance must be made readily available at the request of:

- (a) law enforcement officers;
- (b) law enforcement staff;
- (c) accused or arrested persons; and
- (d) members of the public

1.2 The term:

“accused” means a person who is reasonably suspected of and has been accused of committing a serious crime and is under arrest for that crime;

“admission” means an admission made by an accused to a law enforcement officer whether the admission is by spoken words or by acts or otherwise;

“appropriate adult” means –

- (a) In the case of a juvenile;
 - (i) The parent, guardian;
 - (ii) An officer approved by the Director of Family Services; or
 - (iii) Any responsible adult of the age 18 years or older who is not a law enforcement officer or a person employed by or in a law enforcement agency, and who has no connection with the matters involved in the investigation.
- (b) In the case of a person who is mentally disordered or vulnerable:
 - (i) A relative, guardian or someone recognised in law as having responsibility for the custody and care of the mentally disordered or vulnerable person;
 - (ii) Someone experience in dealing with mentally disordered or mentally vulnerable persons but who is not a member of a law enforcement agency, or has any connection with the matters involved in the investigation. (However, if the accused person expresses a preference for a relative to a better qualified stranger, or objects to a particular person, every effort should be made to respect his wishes so far as practicable);

- (iii) Some other responsible adult of the age of 18 years or older who is not a law enforcement officer or employed by a law enforcement agency, or has any connection with the matters involved in the investigation.

“authorizing officer” means a law enforcement officer of equivalent or higher rank to an inspector of police;

“custodial interview” means an interview which occurs while a person is under arrest in a place of detention, involving a law enforcement officer’s questioning under caution that is reasonably likely to elicit incriminating responses;

“defendant” means any person charged with a serious crime to which the proceedings relate, whether or not convicted;

“electronic recording” means an audio, video or digital recording that is an authentic, accurate, unaltered record of a custodial interview, beginning with a law enforcement officer’s advice of the accused’s constitutional rights and ending when the interview has completely finished; and “electronically recorded” shall be interpreted in a similar context;

“independent observer” means a person appointed by the Director of Social Services to be present during custodial interview of a vulnerable person in accordance with paragraph 8.

“law enforcement agency” means the police force, customs and excise department, immigration agency, ONDCP or other investigatory agency established by the State of Antigua and Barbuda;

“law enforcement officer” means a police officer, a customs and excise officer, an immigration officer, an investigator of the ONDCP or other officer of a State investigatory agency within Antigua and Barbuda;

“legal advisor” means a person who is duly admitted and entitled to practise law as a barrister or a solicitor within the state of Antigua and Barbuda;

“place of detention” means a jail or police station, a holding cell, or other place where a person is held in connection with a criminal charge and where the recording equipment is located;

“recording equipment” means any removable, physical audio recording medium, such as magnetic tape, optical disc or solid state memory, which can be played and copied;

“**remote communication**” means communicating from a location that is different from where the custodial interview takes place;

“**serious crime**” means any of the offences mentioned in the First schedule;

“**statement**” means any form of communication made by the accused whether oral or written or by sign language or nonverbal communication;

“**significant statement**” means a statement by the accused which appears capable of being used in evidence against the accused.

“**vulnerable persons**” means –

- (a) A mentally disordered person or otherwise mentally vulnerable person;
- (b) A person who is under the age of 18 years;

“**written statement**” means any statement made in writing and signed by the accused in relation to his arrest for a serious crime.

1.3. This guidance is not meant to discourage field interviews. A law enforcement officer may record any statement made to him or in his presence by an accused even if the statement was not made at a place of detention.

1.4 If a law enforcement officer to who has recorded a statement pursuant to paragraph 1.3 should facilitate the recording of the statement pursuant to the Act as soon as reasonable practicable after the making of the statement and the procedure for significant statement s pursuant to paragraph 6.6 followed.

1.5. Prior to conducting a custodial interview, a law enforcement officer must ensure that the accused is not in possession of any weapon, contraband, evidence, electronic devices or telephones.

2. Electronic recording and sealing of recording media

2.1 Electronic recording of interviews shall be carried out openly to instil confidence in its reliability as an impartial and accurate record of the interview.

2.2 One copy of the electronic recording, referred to as a master recording, will be sealed in the presence of the accused. The master recording is either of the two recordings used in a twin deck or twin drive machine or the only recording in a single deck or single drive machine.

2.3 A second copy of the electronic recording, referred to as a working copy, will be placed on file of the accused. The working copy is either the second or third recording in a twin or triple deck drive machine or a copy of the master recording.

2.4 At the end of a custodial interview, the law enforcement officer shall seal the electronic recording by signing a label for the master recording and asking the accused and any third party present to sign the same label before placing it on the master recording in the presence of the accused. If the accused or third party refuses to sign the label for the master recording, an authorizing officer, shall be called into the interview room and asked to sign it.

3. Interviews to be electronically recorded

3.1 Electronic recording shall be used at a place of detention for any custodial interview:

- (a) with a person who has been cautioned in respect of an offence;
- (b) which takes place as a result of a law enforcement officer exceptionally putting further questions to a accused about a serious crime after he has been charged with, or been informed he may be prosecuted for, that offence; or
- (c) in which a law enforcement officer wishes to bring to the notice of an accused, after he has been charged with or been informed he may be prosecuted for a serious crime, any written statement made by another person, or the content of an interview with another person.

3.2 The authorizing officer may authorize the interviewing officer not to electronically record the custodial interview:

- (a) where it is not reasonably practicable to do so because of failure of the recording equipment or the non-availability of a suitable interview room or recording equipment and the authorizing officer considers on reasonable grounds that the custodial interview should not be delayed until the failure has been rectified or a suitable room or recording equipment becomes available; or
- (b) where it is clear from the outset that no prosecution will ensue. In such cases the custodial interview shall be recorded in writing.

3.3 In all cases the authorizing officer shall make a note in specific terms of the reasons for not electronically recording the custodial interview.

3.4 If, during the course of an interview with a person who has voluntarily attended the place of detention, a law enforcement officer has grounds to believe that the

person has become an accused, the law enforcement officer shall immediately cease any further questioning, caution the individual and then follow the procedure laid out in paragraph 6 of this guidance.

- 3.5 Every part of every electronic interview shall be recorded including the caution, and the taking and reading back of the written statement.

4. Right to contact a friend, relative or a legal adviser

4.1 Before a custodial interview commences a law enforcement officer shall inform the accused of his right to communicate or attempt to communicate with:

- (a) a friend or relative to inform that person of his whereabouts; and
- (b) a legal adviser

4.2 If a law enforcement officer believes on reasonable grounds that:

- (a) the communication would result in the escape of an accomplice or the fabrication or destruction of evidence; or
- (b) the questioning is so urgent having regard to the safety of other people, that it should not be delayed;

the law enforcement officer shall delay this right for a time that is reasonable in the circumstances before enabling the accused to make, or to attempt to make, the communication.

4.3 If an accused wishes to communicate with a friend, relative or legal adviser, the law enforcement officer in whose custody the accused is:

- (a) shall afford the accused reasonable facilities as soon as practicable to enable the accused to do so; and
- (b) shall allow the legal adviser of the accused to communicate with the accused in custody in circumstances in which, as far as practicable, the communication will not be overheard.

5. Right of foreign national to contact with consular office

- 5.1 A law enforcement officer who has conduct of a matter in which the accused is not a citizen of Antigua and Barbuda shall inform the accused that he has a right to communicate with any consular office in Antigua and Barbuda of the country of which the accused is a citizen.

- 5.2 An authorizing officer shall, if the accused wishes to communicate with his consular office, afford the accused reasonable facilities as soon as practicable to enable the accused to do so.
- 5.3 Notwithstanding paragraph 5.2, An authorizing officer may authorize the delay of the accused's right to communicate with the consular office of the country of which the accused is a citizen if the authorizing officer believes on reasonable grounds that:
- (a) the communication would result in the escape of an accomplice or the fabrication or destruction of evidence; or
 - (b) the questioning is so urgent having regard to the safety of other people, that it should not be delayed

6. Commencement of custodial interview

6.1 When the accused is brought into the interview room the law enforcement officer shall without delay, but in the sight of the accused, load the recording equipment with clean media and set the recording equipment to record. The recording media must be shown to the accused before commencing the custodial interview.

6.2 the law enforcement officer shall then tell the accused formally about the electronic recording. He shall say:

- (a) that the custodial interview is being electronically recorded;
- (b) his name and rank and the name and rank of any other law enforcement officer present;
- (c) the name of the accused and any other person present;
- (d) the date, time of commencement and place of the custodial interview; and
- (e) that the accused will be given a notice about what will happen to the electronic recording.

6.3 the law enforcement officer shall then caution the accused in the following words:

“You do not have to say anything, but it may harm your defence if you do not mention when questioned something which you may later rely on in court. Anything you do say may be given in evidence.”

6.4 Minor deviations from the wording of the caution in clause 6.4 will not constitute a breach of the requirement or render the caution nugatory if the sense of the caution is preserved.

6.5 the law enforcement officer shall remind the accused of his rights to a legal advisor.

6.6 the law enforcement officer shall then put to the accused any significant statement, which occurred before the start of the electronic recording of the custodial interview, and shall ask him whether he confirms or denies that earlier statement or whether he wishes to add anything.

6.7 the law enforcement officer shall then put any question to the accused that he considers necessary to obtain information about the serious crime.

7. Custodial interviews with an accused person who is deaf or unable to speak or understand English

7.1 If it appears to a law enforcement officer that effective communication cannot be established because an accused is deaf or hearing impaired or that the accused cannot speak or understand English, the law enforcement officer shall postpone the custodial interview until an effective communication with the accused can be established.

7.2 An interpreter may provide interpretation by remote communication.

8. Vulnerable persons

8.1 An electronically recorded custodial interview of a vulnerable person must take place in the presence of an appropriate adult.

8.2 If the only obstacle to the electronic recording of a custodial interview of a vulnerable person is that the parent or guardian of the vulnerable person is unavailable and all reasonable efforts to contact them have failed, an authorizing officer may contact the Director of Social Services who shall appoint a social worker as an independent observer to be present during the custodial interview of the vulnerable person.

8.3 If an accused is blind, visually impaired or unable to read, an authorizing officer shall ensure that a relative or legal advisor of the accused or an appropriate adult is available to check any documentation and to sign documents if requested by the accused.

8.4 If any procedure in this Guidance requires information to be given to or sought from a vulnerable person, it must be given or sought in the presence of a parent or guardian of the vulnerable person or an appropriate adult or an independent observer.

8.5 The court shall not admit into evidence in any criminal proceeding any information obtained from a vulnerable person unless the information was obtained in the presence of a parent, guardian, the legal advisor for the vulnerable person, an appropriate adult or an independent advisor.

9. Changing recording media

9.1 If, prior to the completion of a custodial interview, the recording equipment indicates that the recording media has only a short time left to run, the law enforcement officer shall:

- (a) tell the accused that the recording media are coming to an end and that he intends to conclude that part of the custodial interview;
- (b) record a statement of his name, the name of the accused, the date of the recording and number of the recording media used thus far in the custodial interview and the time that the recording media is been stopped;
- (c) remove the recording media from the recording equipment in the presence of the accused; and
- (d) label and seal the recording media immediately after it is removed from the recording equipment.
- (e) show the accused the new recording media before loading it into the recording equipment.

9.2 The law enforcement officer shall continue the custodial interview session by stating:

- (i) his name and rank and the name and rank of any other law enforcement officer present;
- (ii) the name of the accused and of any other person present;
- (iii) the date and the time that custodial interview is continued; and
- (iv) the number of that recording media of the total used for that particular custodial interview.

10. Taking a break during the custodial interview

10.1 If, during the course of a custodial interview, a decision is made by the law enforcement officer to take a break in the interview, the law enforcement officer must pronounce that a break is being taken, state the reason for the break and state the time that the break starts before stopping the recording.

10.2 If the room is to be vacated during the break, the procedure for conclusion of a custodial interview set out in paragraph 14 is to be followed. The custodial interview is to continue on the same recording media after the break.

10.3 When a custodial interview is restarted after a break, the law enforcement officer shall, before putting any question to the accused:

- (i) state his name and rank and the name and rank of any other law enforcement officer present;
- (ii) the name of the accused and of any other person present;
- (iii) the time that the custodial interview is restarting.

11. Failure of recording equipment

11.1 If there is a failure of the recording equipment which can be rectified quickly, the law enforcement officer shall rectify the problem by using the procedure set out in paragraph 9 or 10 of this Guidance as appropriate to the situation.

11.2 If there is a failure of the recording equipment that cannot be rectified and there is no alternate recording equipment available, an authorizing officer may in accordance with paragraph 3.2 authorise the custodial interview to be conducted without being electronically recorded.

12. Refusal to go to interview room

12.1 If an accused refuses to go into or remain in a suitable interview room, and the authorizing officer considers on reasonable grounds that the custodial interview should not be delayed, the custodial interview may, at the authorizing officer's discretion, be conducted in a cell using portable recording equipment or, if none is available, recorded in writing as in procedures in sub-paragraph 3.2. The reason for this shall be recorded in accordance with sub-paragraph 3.3

13. Removing recording media from the recording equipment

When a recording media is removed from the recording equipment it must be kept in the custody of the law enforcement officer having primary conduct of the investigation

14. Conclusion of Custodial Interview

14.1 At the conclusion of a custodial interview, the accused shall be offered the opportunity to clarify anything he has said and to add anything he may wish.

14.2 At the conclusion of the custodial interview, including the taking and reading back of any written statement, the time shall be recorded and the recording equipment switched off. The master recording media shall be sealed with a master recording label and treated as an exhibit.

14.3 The accused shall be handed a notice which explains the use which will be made of the recording media and the arrangements for access to it and that a copy of the recording media shall be supplied to him as soon as practicable if he is charged or informed that he will be prosecuted.

15. After the custodial interview

15.1 The law enforcement officer shall make a record in his notebook of the fact that the custodial interview has taken place and has been electronically recorded, its time, duration and date and the identification number of the master recording media.

15.2 If no proceedings follow in respect of the person whose custodial interview was electronically recorded the recording media must nevertheless be kept securely in accordance with sub-paragraph 16.1

15.3 If an accused is charged with a serious crime he shall be cautioned as follows:

You do not have to say anything, but it may harm your defence if you do not mention now something which you later rely on in court. Anything you do say may be given in evidence.

16. Recording security

16.1 The Commissioner of Police or another authorizing officer shall make arrangements for the master media to be kept securely and their movements accounted for on the same basis as other material which may be used for evidential purposes.

16.2 A law enforcement officer has no authority to break the seal on a master recording media which is required for criminal proceedings.

16.3 If access to the master recording is necessary, an authorizing officer shall inform the Defendant and his legal advisor that access to the master copy is required and that it is intended to break the seal of the master copy. The Defendant and his legal advisor must be invited to be present.

16.3 The seal of a master copy of a recording of a custodial interview shall not be broken except in the presence of the Director of Public Prosecution or a representative of his office.

16.4 If the Defendant or his legal representative is present when the seal of the master copy is broken, the Defendant shall be invited to reseal the document and sign the master recording label. If neither the Defendant nor his legal adviser is present, the representative of the Director of Public Prosecutions shall sign the label used to reseal the recording.

16.3 If no criminal proceedings is brought against the accused in relation to the matter in the custodial interview, the Commissioner of Police is responsible for making arrangements to break the seal of the master recording media when this becomes necessary.

Passed the House of Representatives on
the , 2015.

Passed the Senate on the
, 2015.

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Speaker.

.....
President.

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Clerk to the House of Representatives.

Clerk to the Senate.

EXPLANATORY NOTES

This Bill seeks to strength the powers of law enforcement officers in relation to criminal investigation of serious crimes by allowing the creation of video and audio recordings of interviews of an accused by a law enforcement officer.

Clause 1: Short title

The short title is provided for in clause 1 of the Bill.

Clause 2: Interpretation

Under the interpretation clause various words used in the Bill are defined. These includes words such as, “authorizing officer”, “law enforcement officer” and “serious crime”

Clause 3: Application

The application in clause 3 of the Bill states that where any provisions of the Bill is in conflict with any other law, or where the exercise of any power conferred by or under the Bill would be inconsistent with the exercise of a power conferred by or under any other law, the provisions of the Bill apply in so far as it so conflicts.

Clause 4: Custodial Interview

In clause 4 of the Bill which provides for custodial interviews an accused who is arrested for a serious crime must undergo a custodial interview.

Clause 5: Procedure for custodial Interview

According to clause 5 of the Bill the procedure that must be followed for a custodial interview must comply with the guidance set out in the Second Schedule.

Clause 7: Recordings required if a statement provided

In accordance with clause 7 of the Bill if a statement is not electronically recorded it is considered inadmissible.

Clause 8: Rebuttal of the presumption of inadmissibility

A presumption of admissibility may be rebutted under clause 8 of the Bill if the recording is admissible under the rules of evidence, or the statement is made voluntarily and is reliable, or a record of the reasons for not making the electronic recording is made by the law enforcement officer.

Clause 9: Exception

An electronic recording may not be admissible to clause 9 of the Bill if it was unfairly obtained.

Clause 10: Recorded interview to be made available to the accused

When an interview is recorded it must be made available to the accused under clause 10 of the Bill.

Clause 11: Effect of failure of accused to mention facts when interviewed

The effect of failure of the accused to mention facts when interviewed is identified in clause 11 of the Bill.

Clause12: Effect of charge for a matter otherwise than a serious crime

In clause 12 it is stated that where a person is charged for a matter otherwise than a serious crime an interview may still be electronically recorded.

Clause 13: Amendment of Schedules

The First Schedule and Second Schedule may be amended by the Minister by order under clause 13 of the Bill.

Clause14: Regulations

The Minister is empowered to make Regulations for the purpose of the Bill by clause 14 of the Bill.

Schedules

The offences to which this Bill applies are contained in the First Schedule and guidance for the procedure of electronic recording of custodial interviews is contained in the Second Schedule.