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GRENADA

ACT NO. 34 OF 2014

I assent,



LAWRENCE JOSEPH

*Deputy to the Governor-General.**14th July, 2014.*

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 of persons within and across the borders of Grenada; to provide for the offence of trafficking in persons and other offences associated with trafficking of persons; to provide measures to protect and support trafficked persons and for incidental and connected purposes.

[By Notice].

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Grenada, and by the authority of the same as follows—

PART I**PRELIMINARY**

Short title and
commence-
ment.

1. This Act may be cited as the

**PREVENTION OF TRAFFICKING IN PERSONS
ACT, 2014,**

and shall come into force on a date to be appointed by the Minister by notice published in the *Gazette*.

Interpretation.

2. In this Act, unless the context otherwise requires—

“abuse of vulnerability” means any physical or psychological abuse that leads a person to believe that he or she 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 Grenada 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) a person under the age of eighteen;
- (b) a person eighteen years or older whose special circumstances are such that he or she is unable to reasonably provide for his or her daily requirements.

Special circumstances means the person has—

- (i) a serious illness; or
- (ii) a physical or mental disability.

“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;

“debt bondage” means the status or condition that arises from a pledge by a person of his or her personal services or the personal services of a person under his or her 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 33;

“exploitation” includes all forms of sexual exploitation, forced labour, slavery or practices similar to slavery, servitude, or the illegal removal of human organs or body parts from a person;

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

“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;

“Health practitioner” has the meaning assigned to it under the Health Practitioners Act Cap. 132A;

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

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

“Protection Order” means an order made under section 24 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 of persons;

“relevant official” means an immigration officer, social service professional, health practitioner, nurse or teacher;

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

“serious offence” means an offence—

- (a) for which the sentence is fixed by law; or
- (b) for which a person may, by virtue of any enactment be sentenced to a term of imprisonment for at least ten years;

“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 or she does not perform the labour or provide the service in question, he or she 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; or

(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 intimidating a person by any means to a state of submission to the control of another person as if that other person is the owner of the first-mentioned person;

“structured group” means a group that is not randomly formed for the immediate commission of an offence and does not need to have formally defined roles of its members, continuity of its membership or a developed structure;

“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 payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation; and

“travel document” includes any document, such as a passport, a visa, a tourist card, an airline ticket, 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.

Jurisdiction.

3. Where a person is alleged to have committed an offence under this Act, proceedings in respect of that offence may be commenced in Grenada where the alleged offence—

- (a) is committed by a national of Grenada;
- (b) was directed towards or resulted in the carrying out of an offence under this Act in Grenada or against a national of Grenada;
- (c) was directed towards or resulted in the carrying out of an offence under this Act against a government facility of Grenada outside of Grenada;
- (d) was committed by a stateless person who is ordinarily resident in Grenada;
- (e) was committed on board an aircraft that—
 - (i) is partly or wholly operated by the Government of Grenada or a national of Grenada;
 - (ii) is registered in Grenada;
- (f) was committed on board a vessel that is flying the flag of Grenada or is registered in Grenada; or
- (g) threatens the national security of Grenada.

PART II**ORGANISED CRIMINAL ACTIVITY AND
OBSTRUCTION OF JUSTICE**

4.—(1) Subject to sub-section (2), a person is engaged in the offence of organised criminal activity within the meaning of this Act where the person—

Organised
crime.

- (a) acts in concert with other persons to commit a serious offence for the purpose of obtaining a financial or other material benefit or for a purpose relating directly or indirectly to the obtaining of a financial or other material benefit;
- (b) with knowledge of the purpose or of the general criminal activity of an organised criminal group, or of the intention of the group to commit a serious offence, engages in conduct preliminary to or takes part in—
 - (i) the criminal activity of the group; or
 - (ii) other activities which that person knows will contribute to a criminal purpose or the criminal activity of the group;
- (c) being one of the persons who is a member of an organised criminal group, knowingly instructs any person to commit a serious offence for the benefit of, at all the direction of, or in association with, the group; or

- (d) knowingly advises, causes, encourages or recruits another person to become a member of an organised criminal group.

(2) An offence referred to in sub-section (1) occurs only where it is committed—

- (a) in more than one country;
- (b) in one country but a substantial part of the preparation, planning, direction or control takes place in another country;
- (c) in one country but involves an organised criminal group that engages in criminal activity in more than one country; or
- (d) in one country but has substantial effects in another country.

(3) A person who is convicted of an offence pursuant to section 4 or 7(1) is liable on conviction on indictment to a fine of one million dollars or to a term of imprisonment for twenty-five years or to both.

Prosecution of offences under section 4.

5.—(1) In a prosecution of an offence under paragraph (b) of section 4(1), it is not necessary to prove—

- (a) actual facilitation or commission of the offence by the criminal group;
- (b) that the participation or contribution of the accused enabled the criminal group to facilitate or commit the offence;

- (c) that the accused had knowledge of the specific nature of any offence that may have been committed by the criminal group; or
- (d) that the accused knew the identity of any of the members of the criminal group.

(2) In a prosecution of an offence under paragraph (d) of section 4(1), it is not necessary to prove that—

- (a) the offence in question was committed;
- (b) the accused instructed a particular person to commit the offence; or
- (c) the accused knew the identity of every member of the criminal group.

6. The Court may, in determining whether an accused person has participated in or contributed to the organised criminal activity of a criminal group, consider, *inter alia*, whether the accused, in relation to the group—

Factors to be considered by the Court.

- (a) admits to being a member;
- (b) has been identified as a member by a parent or guardian or any other person;
- (c) habitually associates with its members;
- (d) adopts the name, colours, symbol or other representation that is associated therewith; or
- (e) receives any financial or material benefit from the group.

Obstruction of
justice.

7.—(1) A person who, in relation to a witness or justice system participant involved in criminal proceedings to which this Act applies—

- (a) uses or threatens to use physical force;
- (b) intimidates; or
- (c) promises or offers a financial or other material benefit,

for the purpose of interfering with the judicial process and in the case of a witness, for the purposes specified in sub-section (3), commits an offence.

(2) A person who is convicted of the offence of obstruction of justice under this section is liable on conviction on indictment to a fine of five hundred thousand dollars or to a term of imprisonment for ten years or to both.

(3) The purposes referred to in sub-section (1) are—

- (a) inducing false testimony;
- (b) interfering with the giving of testimony;
or
- (c) interfering with the production of
evidence,

in the proceedings.

Prosecution of
offences under
section 7.

8. In the prosecution of an offence under section 7, it is not necessary to prove that—

- (a) that accused had knowledge of the specific nature of any offence that may have been committed under this Act; or
- (b) the accused knew the identity of any of the members of the group.

PART III**TRAFFICKING IN PERSONS**

9.—(1) Any person who, for the purpose of exploitation of another person organises or facilitates—

Offences relating to trafficking in persons.

- (a) the entry or proposed entry of the other person into Grenada;
- (b) the exit or proposed exit of the other person from Grenada; or
- (c) the receipt of the other person into Grenada,

by any of the means specified in sub-section (6) and thereby obtains the compliance of the other person in respect of the entry or proposed entry or the exit or proposed exit or in respect of that receipt, is guilty of the offence of trafficking of persons.

(2) Any person who—

- (a) organizes or facilitates—
 - (i) the entry or proposed entry;
 - (ii) the exit or proposed exit; or
 - (iii) the receipt of another person,

in accordance with sub-section (1); and

- (b) in organising or facilitating that action, is reckless as to whether the other person will

be exploited after that entry or proposed entry or after that exit or proposed exit or after the receipt of that person,

is guilty of the offence of trafficking of persons.

(3) Any person referred to in paragraph (a), (b) or (c) of sub-section (1), who deceives the other person about the fact that the entry or proposed entry or receipt of the other person or any arrangements for the stay of the other person in Grenada will involve—

- (a) the provision by the other person of sexual services;
- (b) the exploitation or debt bondage of the other person;
- (c) the removal of human organs or body parts; or
- (d) the confiscation of the travel or identity documents of the other person,

is guilty of the offence of trafficking of persons.

(4) Any person referred to in paragraph (a), (b), or (c) of sub-section (1), who—

- (a) arranges or knows of an arrangement for the other person to—
 - (i) provide sexual services;

- (ii) provide forced labour, slavery, servitude or a similar practice; or
 - (iii) have any human organs or body parts removed; and
- (b) deceives the other person about any of the following—
- (i) the nature of the sexual services to be provided;
 - (ii) the extent to which the other person will be free to leave the place or area where the other person provides sexual services;
 - (iii) the extent to which the other person will be free to cease providing sexual services;
 - (iv) the extent to which the other person will be free to leave his or her place of residence;
 - (v) where there is a debt owed or claimed to be owed by the other person in connection with the arrangement for the other person to provide sexual services, the quantum or the existence of the debt owed or claimed to be owed; and
 - (vi) the removal of any human organs or body parts,

is guilty of the offence of trafficking of persons.

(5) A person who for the purpose of exploitation, recruits, transports, transfers, harbours or receives a person referred to in sub-section (1) by any of the means specified in sub-section (6) is guilty of the offence of trafficking in persons.

(6) The means referred to in sub-sections (1) and (5) are—

- (a) threats or use of force or other forms of coercion;
- (b) abduction;
- (c) deception or fraud;
- (d) the abuse of—
 - (i) power; or
 - (ii) a position of vulnerability;
- (e) the giving or receiving of payments or of a benefit in order to obtain the consent of a person who has control over another person.

(7) A person who contravenes this section commits an offence and, subject to sections 10 and 11, is liable on summary conviction to a fine of two hundred and fifty thousand dollars or to a term of imprisonment for seven years or to both.

10.—(1) Where an offence under section 9 is committed in relation to a child, subject to sub-sections (2) and (3) and section 11, the person commits an offence and is liable on conviction on indictment to a fine of one million dollars or to a term of imprisonment for twenty-five years or to both. Penalty where trafficked person is a child.

(2) Where an offence under section 9 is committed for the sexual exploitation of a child, subject to section 11, the person convicted for that offence is liable on conviction on indictment to a fine of one million dollars or to a term of imprisonment for twenty-five years or to both.

(3) A person who—

- (a) sexually exploits a child which he or she 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 of one million dollars or to imprisonment for twenty-five years or to both.

11. A person convicted of an offence under section 9 is liable on conviction on indictment to a fine of one million dollars or to a term of imprisonment for thirty years or to both if any of the following circumstances is present— Aggravating circumstances.

- (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 organised 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;

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- (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 abusing the vulnerability of the trafficked person.

12. A person who knowingly engages in conduct that causes another person to enter into debt bondage commits an offence and is liable on summary conviction to a fine of two hundred and fifty thousand dollars or to a term of imprisonment for seven years or to both. Debt bondage.

- 13.—(1)** A person commits an offence if he or she— Using services of trafficked person.
- (a) benefits, financially or otherwise, from the services of a trafficked person or of a person he or she 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 or she knows or ought reasonably to have known to be a trafficked person.

(2) A person who commits an offence under sub-section (1) is liable on summary conviction to a fine of twenty thousand dollars or to a term of imprisonment for two years or to both.

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

- (a) a child who is a trafficked person, or a person having control or authority over a child who is

a trafficked person, 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 of that child or that the intended exploitation did not occur.

Past sexual behavior irrelevant.

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

Fraudulent travel or identity documents.

16. 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 of five hundred thousand dollars or to a term of imprisonment for twenty years or to both.

Destruction, confiscation, possession, concealment or tampering with document.

17. 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 of two hundred and fifty thousand dollars or to a term of imprisonment for six years or to both.

Providing facilities in support of trafficking in persons.

18. A person who—

- (a) knowingly leases or subleases or allows to be used any room, house, building or establishment he or she knows or ought

reasonably to have known is being used or 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 distributing 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 of fifty thousand dollars or to a term of imprisonment for twenty years or to both.

19. A person who, directly or indirectly, provides or makes available financial services or facilities—

Providing financial services or facilities for the purpose of trafficking in persons.

- (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 and fifty thousand dollars or to a term of imprisonment for seven years or to both.

Harbouring
persons.

20.—(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 two hundred thousand dollars or to a term of imprisonment of twenty years or to both.

(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.

Immunity from
criminal
prosecution.

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

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

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

PART IV**IDENTIFICATION AND PROTECTION OF VICTIMS
OF TRAFFICKING**

22. The Minister may, by notification in the *Gazette*,^{Place of refuge.} declare any house, building or place, or any part thereof, to be a place of refuge for the care and protection of trafficked persons.

23.—(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 or her before a magistrate within twenty-four hours, for the purpose of obtaining an interim protection order.^{Taking a trafficked person into temporary custody.}

(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 24.

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

24.—(1) Where an interim protection order is made under sub-section 23(2), the police officer shall, within fourteen days from the date of such order, investigate the circumstances of the person's case for the purpose of determining whether the person is a trafficked person under this Act.^{Protection Order.}

(2) Upon completion of the investigation and enquiry under sub-section (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 sub-section (2), is satisfied that the person brought before him or her—

(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 Grenada, 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 Grenada, 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 or her to an immigration officer for necessary action in accordance with the Immigration Act Cap. 145.

(b) is not a trafficked person, the magistrate may—

(i) in the case of a person who is a citizen or permanent resident of Grenada, order that person to be released; or

- (ii) in the case of a person who is not a citizen or permanent resident of Grenada, order that person to be released to an immigration officer for necessary action in accordance with the Immigration and Passports Act, Cap. 145.

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

(5) Notwithstanding sub-section (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.

25.—(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— Release of trafficked person.

- (a) in the case of a trafficked person who is a citizen or permanent resident of Grenada, release that person; or
- (b) in the case of a trafficked person who is not a citizen or permanent resident of Grenada, release that person to an immigration officer for necessary action in accordance with the Immigration and Passports Act, Cap. 145 and Part V 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 necessary.

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

26.—(1) Where a police officer takes a person into temporary custody under section 23(1) and 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 or her to a health practitioner.

(2) Where the person taken into temporary custody under section 23(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 section 23(1) and is presented to a health practitioner under sub-section (1), shall be produced before a magistrate—

- (a) within forty-eight hours of the completion of the examination or treatment by the health practitioner; or
- (b) if the person is hospitalised, on his or her discharge from the hospital.

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

27. A trafficked person who escapes or is removed from a place of refuge without lawful authority shall be taken into custody by a police officer and shall be brought back to the place of refuge.

Escape or removal of trafficked person from place of refuge.

28. A person commits an offence and is liable on summary conviction to a fine of twenty thousand dollars or to imprisonment for a term of two years, if he or she—

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

- (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 or her from returning to the place of refuge.

29. The Government shall, where practicable, take all reasonable steps to assist trafficked persons, in—

Assistance to trafficked persons.

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

PART V**DEPORTATION AND REPATRIATION OF VICTIMS
OF TRAFFICKING**

Summary
deportation of
victim of
trafficking
prohibited.

30.—(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 a trafficked person to his or her country of citizenship or permanent residence.

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

- (a) the safety of the trafficked person while in Grenada;
- (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 or she should be sent, in cases where there is a choice.

Repatriation of
trafficked
person from
Grenada.

31.—(1) The Minister responsible for Immigration shall not return a trafficked person to his or her country of citizenship or permanent residence or the country from where he or she 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 or she 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 or her country of citizenship or permanent residence or the country from where he or she has been trafficked if that person freely elects to do so.

32.—(1) The Minister responsible for Immigration with due regard to the safety of the trafficked person shall—

Repatriation
of trafficked
person to
Grenada.

- (a) in consultation with such governmental departments as he or she considers necessary, assess the risks to the safety and life of a trafficked person who is a citizen or permanent resident of Grenada, if he or she is returned to Grenada;
- (b) facilitate the return to Grenada, of a trafficked person who is a citizen or permanent resident of Grenada;
- (c) take such steps as are necessary for the secure reception of a trafficked person who is a citizen or permanent resident of Grenada at a Grenadian 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 Grenada to travel to and enter Grenada.

(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 of Persons or to an agreement relating to trafficking of persons, verify whether a trafficked person is a citizen or permanent resident of Grenada.

PART VI

ENFORCEMENT

Enforcement officers.

33. The following persons shall be enforcement officers for the purposes of this Act—

- (a) a police officer;
- (b) an immigration officer; and
- (c) an officer of the Coast Guard.

Powers of arrest.

34.—(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 sub-section (1) shall, without delay, bring the arrested person to the nearest police station, and thereafter the person shall be dealt with in accordance with the law relating to criminal procedure.

35.—(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—

Search and seizure with warrant.

- (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 sub-section (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 body parts, 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 or her other persons or equipment as may appear to him or her to be necessary.

(4) A police officer, in the exercise of his or her 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 or she 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 the date of issue, when the warrant expires.

(6) Where, by reason of its nature, size or amount, it is not practicable to remove anything seized under this section, the police 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 sub-section (6) or removes anything under seal, or attempts to do so, commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars or to imprisonment for a term of two years.

36. Where a police officer has reasonable grounds to believe that by reason of delay in obtaining a search warrant under section 35, 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 or she may, without warrant and with such assistance and force as is necessary—

Search and seizure without warrant.

- (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.

List of things
seized.

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

Forfeiture of
property on
conviction.

38.—(1) Where a person is convicted of the offence of trafficking in persons, the court may, on an application by the Director of Public Prosecutions, order that anything liable to forfeiture be forfeited to the Crown.

(2) The court shall not make a forfeiture order in relation to sub-section (1) 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 persons.

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

Procedure
where no
prosecution.

- (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 thirty 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 Grenada 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 thirty days from the 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 or she is the owner of the conveyance, personal property, book, record, report or document was seized.

(2) Where a claim under sub-section (1) (a) is made, the police officer shall, unless there is a claim under sub-section (1) (b), release the property seized to the person from whom it was seized, on the expiration of the period specified in sub-section (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 or she 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 examine the matter and order the release of such thing to the person entitled to it.

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

40. A person shall not, in respect of any entry or search, or seizure of anything 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.

41. A person who obstructs, impedes, interferes or fails to comply with any lawful demand of an enforcement officer in the performance of his or her functions under this Act commits an offence and is liable on summary conviction to a fine of fifty thousand dollars or to a term of imprisonment for two years or to both.

Obstruction of
enforcement
officer.

42. —(1) A person who—

Tipping-off.

- (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 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 of one hundred and fifty thousand dollars or to imprisonment for a term of 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 of one hundred fifty thousand dollars or to imprisonment for a term of two years.

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

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

PART VII

MISCELLANEOUS

Compensation
to trafficked
person.

43.—(1) Notwithstanding any other law, the court may, on its own accord or at the request of a 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) For the purposes of sub-section (1), compensation shall be paid to a trafficked person under this Act, as far as possible from property or proceeds forfeited from a person convicted under this Act or any other relevant enactments.

44.—(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 notarised translation of such document into English is admissible in evidence where—

Admissibility
of translation
of documents.

- (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) Sub-section (1) applies to a document which is translated, whether or not—

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

Mutual legal assistance.

45. The Mutual Legal Assistance in Criminal Matters Act Cap. 202B shall apply to this Act in relation to an offence under this Act and the assistance to be afforded may be requested for giving effect to the purposes of this Act.

Passed by the House of Representatives this 16th day of May, 2014.

RAPHAEL DONALD
Acting Clerk to the House of Representatives.

Passed by the Senate this 11th day of June, 2014.

RAPHAEL DONALD
Acting Clerk to the Senate.

GRENADA
