

TRAFFICKING IN PERSONS (PROHIBITION) ACT, 2013

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SCHEDULE



No. 2 of 2013

I assent,

(SIR COLVILLE N. YOUNG)

Governor-General

31st January, 2013.

AN ACT to prohibit and prescribe punishment for Trafficking in Persons; to give effect to and implement the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons; to make provision for the offence of trafficking in persons, trafficking for the purpose of adoption and other related offences; to repeal the Trafficking in Persons (Prohibition) Act, (No. 18 of 2003); and to provide for matters connected therewith or incidental thereto.

(Gazetted 2nd February, 2013.)

BE IT ENACTED, by and with the advice and consent of the House of Representatives and the Senate of Belize and by the authority of the same, as follows:

PART 1 PRELIMINARY

1. This Act may be cited as the

Short title.

TRAFFICKING IN PERSONS (PROHIBITION) ACT, 2013.

Interpretation.

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

“abuse of a position of vulnerability” means –

a) an abuse committed on a person where the person abused believes

- he has no reasonable alternative but to submit to the labour or service demand of him; or;
- b) taking advantage of the vulnerabilities of abused person resulting from the abused person -
 - i. having entered Belize illegally or without proper immigration documents;
 - ii. being pregnant;
 - iii. having a disease whether physical or mental;
 - iv. having a disability; or
 - v. being addicted to alcohol or any illegal drugs, which reduced the abused person's capacity to form judgment;

“child” means a person below the age of eighteen year,

“coercion” includes –

- a) violent as well as non-violent forms of psychological coercion;
- b) threats of serious harm to, or physical restraints against, any person;
- c) any scheme, plan or pattern intended to cause a person to believe that failure to perform would result in harm to, or physical restraint against, any person; or
- d) 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;

“Council” means the Anti-Trafficking in Persons Council established under section 5;

“debt bondage” means the status or condition of a debtor from a pledge by the debtor of his personal services or those of a person under his control as a security or payment for debt, when the length and nature of services is not respectively limited and is not clearly defined or the value of those services as reasonable assessed is not applied towards the liquidation of the debt or where the length and nature of those services are not respectively limited and defined;

“exploitation” means –

- a) keeping a person in a state of slavery;
- b) subjecting a person to practices similar to slavery;
- c) compelling or causing a person to provide forced labour or

- services;
- d) keeping a person in a state of servitude, including sexual servitude;
- e) exploiting another person by using such person, directly or indirectly, as a prostitute;
- f) engaging in any form of commercial sexual exploitation, including pimping, pandering or procuring prostitution, or profiting from sexual prostitution, maintaining a brothel, or engaging in pornography or strip tease dances where females or males dance nude or in a state or semi-nudity; or
- g) illicit removal of human organs;

“forced labour” means labour or services obtained or maintained through force, threats of force, or other means of coercion;

“forfeiture” means the permanent deprivation of property by order of a court or other competent authority;

“illicit removal of human organs” means the unlawful removal of human organs and does not include legitimate medical procedures for which proper consent has been obtained under the laws of Belize;

“Minister” means the Minister responsible for human development;

“organized criminal group or network” means a structured group of three or more persons acting in concert with the aim of committing a criminal offence in order to obtain, directly or indirectly, a financial or other material benefit;

“pornography” includes a photograph, film, video or other visual representation, whether or not made by electronic, mechanical, artistic or other methods, that shows, for a sexual purpose -

- a) a person engaging in explicit sexual activity or conduct;
- b) parts of a person’s body pasted to visual representation; or
- c) parts of a person’s body which have been rendered complete by computer generated images or by other methods of visual representation,

but does not include any written or visual representation produced for the purpose of education, counseling, the promotion of reproductive health or as part of related criminal investigation and prosecution;

“practices similar to slavery” has the meaning assigned to it in the Supplementary Convention on the Abolition of Slavery, Slave Trade, and Institutions and Practices Similar to Slavery; and includes debt bondage, serfdom, force servile marriages and delivery of children for exploitation;

“proceeds of trafficking” means any property derived, obtained or realized directly or indirectly as a result of or in connection with the offence of trafficking in persons and includes, on a proportional basis, property into which any property derived or realized directly from the offence was later converted, transformed or intermingled, as well as income, capital or other economic gains derived or realized from such property at any time since the conviction or commission of the crime;

“property” includes money, investments, holdings, possessions and assets of every kind, whether corporeal or incorporeal, movable or immovable, legal documents or instruments evidencing title, or interest in such assets, wherever situate;

“prostitution” means any act or practice of engaging in sex or other bodily contact or stimulation of the genitals of a person with intent to arouse or gratify the sexual desires of that person or another, such act or practice performed for hire or a fee, commission, reward or profit but excludes sexual activity between spouses;

“public office” means any office of emolument in the public service;

“receiving country” means a country into which a victim of trafficking in persons is brought as part of an act of trafficking in persons.

“servitude” means a condition of dependency in which the labour or services of a person are provided or obtained by threats of harm to that person or another person, or through any scheme, plan, or pattern intended to cause that person to believe that, if the person did not perform, someone would suffer harm;

“slavery” means the status or condition of a person over whom any or all the powers attaching to the rights of ownership are exercised;

“spouse” includes a member of a common law union as defined by section 148D of the Supreme Court of Judicature Act (*CAP. 91*); and

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

Application.

3. This Act applies to all forms of trafficking in persons, whether national or transnational and whether or not connected with an organized criminal group or network.

Extra territorial offence.

4. A person who being a citizen of or who habitually resides in Belize, and who does an act or encourages, facilitates, conspires to commit or induces a person to

commit an act in any territory outside of Belize that would be an offence under this Act commits an offence whether or not that act is an offence in the territory where it was committed and is liable on conviction on indictment to imprisonment for the term prescribed as if the offence had been committed in Belize.

PART 2

ANTI-TRAFFICKING IN PERSONS COUNCIL

**Establishment
and composition
of Council.**

5. (1) There is hereby established a body to be known as the Anti-Trafficking in Persons Council.

(2) The Council shall consist of the following members appointed by the Minister -

- a) the Chief Executive Officer of the Ministry responsible for human development, as Chairman;
- b) a representative of the Ministry responsible for foreign affairs;
- c) a representative of the Ministry responsible for national security;
- d) a representative of the Attorney-General's Ministry;
- e) a representative of the Ministry responsible for health;
- f) a representative of the Belize Tourism Board;
- g) the Labour Commissioner;
- h) the Commissioner of Police;
- i) the Director of Immigration and Nationality Services;
- j) the Director of Public Prosecutions;
- k) the Comptroller of Customs; and
- l) not more than three other persons from a nongovernmental organization or any other relevant organization having appropriate experience, knowledge and expertise in relation to the problem of and issues relating to trafficking in persons including the protection and support of trafficked persons.

(3) The members appointed under subsection (2)(l), may be appointed for a period not exceeding three years and at the expiration of that period may be eligible for reappointment.

**Functions of
the Council.**

6. (1) The functions of the Council shall be as follows –

- a) coordinate the implementation of this Act, and formulate policies and programmes to prevent or suppress trafficking

in persons, including the support and protection of victims of trafficking in persons;

- b) develop, within one year of the commencement of this Act, a national action plan on the prevention and suppression of trafficking in persons including the support and protection of victims of trafficking in persons, the prosecution of offenders, training of personnel and thereafter to review and update the national action plan every three years;
- c) develop, coordinate and monitor the implementation of the national referral system for the proper identification of, assistance to and protection of victims of trafficking in persons including child victims, and to ensure that they receive adequate assistance and protection;
- d) monitor the immigration and emigration patterns in Belize to ascertain evidence of trafficking and to secure the prompt response of government agencies to problems related to trafficking in persons;
- e) formulate and coordinate measures to educate the public on preventative and protective measures for victims or potential victims of trafficking and the offences and the penalties under this Act;
- f) facilitate cooperation with regional and international bodies in relation to trafficking in persons including the support and protection of victims of trafficking in persons;
- g) advise the government on trafficking in persons including developments at regional and international levels;
- h) collect and collate data and authorize research relating to prevention and suppression of trafficking in persons;
- i) facilitate inter-agency and multidisciplinary cooperation between governments and nongovernmental organizations;
- j) act as a focal point for institutions engaged in prevention of trafficking in persons;
- k) make recommendations to the Minister on all aspects of prevention and suppression of trafficking in persons; and
- l) perform any other functions as directed by the Minister for the proper implementation of this Act.

(2) In formulating policies and developing a national action plan to protect and provide support to the victims and for delivery of services, such policies and action plan shall take into consideration the age, gender and special needs of the victims and other related matters.

**Ministerial
directions.**

7. The Minister may give to the Council policy directions not inconsistent with this Act and related to its functions and the Council shall give effect to such directions.

Procedures and meetings.

8. (1) The Council shall meet as often as may be necessary or expedient for the transaction of its business and such meetings shall be held at such places and times and on such days as the Council may determine.

(2) The Council may invite any person to attend meetings or deliberations of the Council for the purpose of advising it on any matter under discussion, but that person shall not be entitled to vote.

(3) The Chairman shall preside at all meetings but if the Chairman is unable to attend a meeting, the members present and constituting a quorum shall elect one of their numbers to preside at that meeting.

(4) The quorum of the Council shall be seven members.

(5) The Council's decisions shall be by a majority of votes, and in addition to an original vote, the Chairman or other person presiding at a meeting shall have a casting vote in any case in which the voting is equal.

(6) Subject to this section, the Council may regulate its own proceedings and meetings.

Committees.

9. (1) The Council may appoint committees and specify their terms of reference as necessary or expedient to assist in the performance of their functions.

(2) A committee established pursuant to subsection (1) may be appointed from amongst the members of the Council or any other persons whom the Council believes to be qualified for such appointment.

Secretariat of the Council.

10. The Ministry with responsibility for foreign affairs shall act as secretariat of the Council.

PART 3 OFFENCES

Offences of trafficking in persons.

11. (1) A person who engages in, conspires to engage in or attempts to engage in, or assists another person to engage in, or organizes or directs another person to engage in, trafficking in persons commits an offence and is liable on conviction on indictment, to imprisonment for a term of eight years.

(2) Where the victim of the offence of trafficking in person is a child, the offender is liable on conviction on indictment, to imprisonment for a term of twelve years.

(3) The recruitment, transportation, harbouring, receipt of a child, or the giving of payments or benefits to obtain the consent of a person having the control of a child, for the purpose of exploitation, constitutes trafficking in persons irrespective of whether any of the elements of the definition of "trafficking in persons" is present or not in any case.

Trafficking in children for adoption.

12. A person who engages in the adoption or facilitates the adoption of a child for the purpose of trafficking in persons, commits an offence and is liable

on conviction on indictment, to a fine of five hundred thousand dollars or imprisonment for a term of ten years or to both.

**Offence of
facilitating child
prostitution, etc.**

13. (1) A person who, for the purpose of trafficking in persons, acts as an intermediary to induce or encourage or facilitates another to give or promise remuneration, gifts, goods, food or other benefit to a child or any person having authority or control over a child for the purpose of inducing, encouraging compelling or otherwise getting that child to participate in any sexual activity with the person so remunerating, commits an offence and is liable on conviction on indictment to imprisonment for a term of ten years.

(2) A person who, being a person in authority or exercising control over a child, for the purpose of trafficking in persons, takes advantage of his authority over that child and sexually exploits that child or causes another to sexually exploit that child, commits an offence and is liable on conviction on indictment to imprisonment for a term of ten years.

**Offence of
facilitating
exploitation, etc.**

14. A person who, for the purpose of trafficking in persons, causes, encourages or facilitates a child, to participate in an activity, whether sexual or not, by way of exploitation, for which that person receives remuneration or compensation from a third person, commits an offence and is liable on conviction on indictment to imprisonment for a term of eight years.

**Offence of
profiteering
from trafficking
in persons.**

15. A person who knowingly profits from the exploitation of a victim of trafficking in persons commits an offence and is liable on conviction on indictment to imprisonment for a term of eight years.

**Offence of
Advertising.**

16. A person who advertises, publishes, prints or broadcasts or causes the advertisement, publication, by any means, including the use of information technology of any brochure, flyer or other materials which promotes trafficking in person commits an offence and is liable on conviction on indictment to imprisonment for a term of eight years.

**Offence of
providing
facilities in
support of
trafficking in
persons.**

17. A person who is the owner, occupier, lessee or person in charge of –

- a) a premises, room or place, who knowingly permits a meeting to be held in that premises, room or place; or
- b) any equipment or facility that allows for recording, conferencing or meetings via technology, who knowingly permits that equipment or facility to be used,

for the purpose of committing an offence under this Act, commits an offence and is liable on conviction on indictment to a fine of ten thousand dollars or to imprisonment for a term of five years or to both.

Offence of providing services for the purpose of trafficking in persons.

18. (1) A person who, directly or indirectly, provides or makes available financial services or facilities –

- a) intended to be used, or knowingly, or having reasonable grounds to believe that the services or facilities will be used for the purpose of committing or facilitating the commission of an act of trafficking in persons, or for the purpose of benefiting any person who is committing or facilitating the commission of an act of trafficking in persons; or
- b) knowingly, or having reasonable grounds to believe that 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 conviction on indictment to a fine of ten thousand dollars or to imprisonment for a term of five years or to both.

(2) For the purpose of subsection (1), “financial services or facilities” include the services or facilities offered by an attorney at law or accountant acting as an agent for a client.

Obligation of owner, operator or master of conveyance.

19. (1) A person being the owner, operator or master of a conveyance, that engages in the transportation for commercial gain shall ensure that every person traveling on board his conveyance is in possession of a lawful travel document for entry by that person into the receiving country.

(2) An owner, operator or master of a conveyance under subsection (1) who knowingly permits, or has reasonable grounds to believe that such conveyance -

- a) is being used for the purpose of transporting a person into a receiving country without the travel documents required for the lawful entry of that person into the receiving country; or
- b) is being used for the purpose of committing an act of trafficking in persons,

commits an offence and is liable on conviction on indictment to the penalty prescribed in subsection (3).

(3) A person who commits an offence under subsection (2) shall be liable -

- a) where that person is an individual, to a fine of one hundred thousand dollars or to imprisonment for a term of ten years or to both;
- b) where that person is a body corporate, to a fine of two hundred and fifty thousand dollars; and any officer, director or agent of that body corporate who directed, authorized,

assented to, acquiesced in or participated in the commission of the offence may also be liable on conviction on indictment to the penalty prescribed in section 19(2)(b)(i).

(4) In proceedings under this section, it may be a defence for an owner, operator or master of a conveyance to prove that -

- a) he has reasonable grounds to believe that the travel documents of the person travelling on board are travel documents required for lawful entry of that person into the receiving country;
- b) the person travelling on board possessed travel documents required for lawful entry into the receiving country when that person boarded, or last boarded the conveyance to travel to the receiving country; or
- c) the entry of the person into the receiving country occurred only because of illness or injury to that person, stress of weather or any other circumstances beyond the control of such owner, operator or master.

(5) Where a person is convicted under subsection (2), that person shall pay, in addition to any penalty imposed pursuant to subsection (3), the costs of the accommodations, meals and repatriation of the victim of trafficking in persons.

Additional penalties in relation to a body corporate.

20. Where a body corporate or its officer, director or agent has been convicted of an offence under this Act, the court shall have the power, in addition to the power to impose the penalty prescribed for the stated offence, to –

- a) order that body corporate to be wound up;
- b) order that the business licence of that body corporate be revoked; and
- c) prohibit that body corporate from performing any further activities.

Intentional omission to give information.

21. A person who knowingly or having reasonable cause to believe that an offence under this Act has been or will be committed, intentionally omits to give any information respecting that offence to the relevant authorities, commits an offence and is liable on conviction on indictment to a fine of five thousand dollars or to imprisonment for a term of three years or to both.

Offence by person in public office.

22. A person in a public office who, aids or abets another person or undertakes any activity which facilitates or promotes the commission of an offence under this Act commits an offence and is liable on conviction on indictment to imprisonment for a term of fifteen years and shall, upon conviction, cease to hold that public office.

Offences of unlawfully withholding identification papers.

23. A person who, acting or purporting to act as another person's employer, manager, supervisor, contractor, employment agent or solicitor of clients, knowingly procures, destroys, conceals, removes, confiscates or possesses any passport, birth certificate, immigration document or other governmental document, actual or purported, belonging to another person commits an offence and is liable on summary conviction to a fine of ten thousand dollars or to imprisonment for a term of five years or to both.

Restitution.

24. (1) A court may order a person convicted of an offence under this Act to pay restitution to a victim.

(2) In determining the amount of restitution, the court shall take into account

- a) the cost of medical and psychological treatment of the victim;
- b) the costs of physical and occupational therapy and rehabilitation of the victim;
- c) the costs of necessary transportation, temporary housing and child care of the victim;
- d) the victim's loss of income;
- e) the degree of emotional distress, pain and suffering experienced by the victim; and
- f) any other loss suffered by the victim.

(3) Where a court orders the payment of restitution, that payment shall be made promptly after the conviction and the return of the victim to his home country and any other absence of the victim from Belize shall not prejudice the victim's right to receive restitution.

(4) Where the costs specified in subsection (2)(a), (b), or (c) is borne by the Government, the convicted person shall reimburse the Government for the amount paid, and such amount may be recoverable as a civil debt.

Consent or past sexual behavior of victim irrelevant

25. (1) In any prosecution for an offence under this Act, the alleged consent of the victim to the intended or realized exploitation is irrelevant and inadmissible.

(2) In any prosecution for an offence under this Act, the evidence of a victim's past sexual behavior is irrelevant and inadmissible for the purpose of proving that the victim engaged in other sexual behavior, or to prove the victim's sexual predisposition.

Legal age of consent.

26. The legal age of consent to sexual intercourse or to marriage is not a defence for an offence under this Act.

Victim not liable for immigration offence.

27. A victim of trafficking in persons shall not be criminally liable for any immigration related offence or any other criminal offence that is a direct result of that victim being trafficked.

Powers of the court to impose higher sentences for aggravated circumstances.

28. (1) Notwithstanding the penalty prescribed under sections 11, 12, 13 and 18, where a person is convicted under any of those sections and there is the presence of any of the following aggravating circumstances, being –

- a) the convicted person used, threatened to use, or caused another to use or threaten to use, a dangerous weapon;
- b) the trafficked person suffered a serious bodily injury, or permanent or life-threatening injury;
- c) the convicted person caused the trafficked person, in the course of the trafficking or subsequent exploitation, to be exposed to a life-threatening illness become addicted to any drug or other substance;
- d) the convicted person caused or facilitated a sexual assault to be committed against the trafficked person;
- e) the convicted person organized or directed an organized criminal group of which the trafficking was part of its activities;
- f) or the trafficking occurred as the result of abuse of power or authority or abuse of a position of vulnerability, including abuse by a parent or guardian, teacher, the leader of any children's club or other group, or any other person who had been entrusted with the care of supervision of a child,

the court may impose an additional term of imprisonment of up to twenty-five years.

(2) In this section -
“dangerous weapon” means –

- a) an instrument capable of inflicting death or serious bodily injury; or
- b) an object that is not an instrument capable of inflicting death or serious bodily injury, but closely resembles such an instrument, or is used in such a way that it creates the impression that the object is an instrument capable of inflicting death or serious bodily injury;

“life-threatening illness” means any illness that involves a substantial risk of death, and includes Human Immuno Deficiency Virus Infection (HIV/AIDS) and

tuberculosis;

“permanent or life-threatening injury” means-

- a) an injury involving a substantial risk of death, loss or substantial impairment of the function of a bodily member, organ or sense that is likely to be permanent; or
- b) a disfigurement that is likely to be permanent; or
- c) maltreatment to a life-threatening degree or proportion, such as denial of food or medical care or drugs that results in substantial impairment of function of the body or mind;

“serious bodily injury” means –

- a) an injury involving extreme physical pain or the protracted impairment of a function of a bodily member, organ or sense; or
- b) an injury requiring medical intervention such as Surgery, hospitalization or physical rehabilitation; and

“sexual assault” means -

- a) the engagement of another person in a sexual act by a person -
 - i. using force against that other person;
 - ii. threatening or placing that person in fear that any person will be subjected to death, serious bodily injury, or kidnapping; or
- b) the engagement by a person in a sexual act with -
 - i. an incapacitated person; or
 - ii. a person who cannot express consent.

(3) Notwithstanding the penalty prescribed under sections 11, 12 or 13, where a person is convicted of an offence under any of those sections and that person engaged in sexual intercourse with a child, the court may impose a sentence of life imprisonment.

PART 4

ASSISTANCE AND PROTECTION FOR VICTIMS

**Guiding
principles.**

29. In the investigation and prosecution of offences relating to trafficking in persons, the following guidelines shall apply

- a) all steps necessary to identify the victim of the offence of trafficking in persons shall be taken;
- b) reasonable protection to a victim of the of the offence

trafficking in persons shall be taken to prevent recapture by the traffickers and their associates;

- c) reasonable protection shall be taken to secure the victim's family, where they reside in Belize, from threats, reprisal or intimidation by the traffickers or their associates; and
- d) protection and enforcement of the rights of a child victim.

Privacy of victims.

30. In a prosecution of a person for the offence of trafficking in persons, the court shall -

- a) hold all proceedings *in camera*;
- b) ensure that the identity of the victim and the victims family is kept confidential;
- c) ensure that any identifying information of the victim and the victim's family are not released to the press or to the public;
- d) allow the testimony of a victim to be given from behind a screen or via video or other electronic means so that the victim is not face to face with the perpetrator; and
- e) ensure that the testimony and court proceedings of a child witness takes place in the presence of a parent, legal guardian, foster parent or social services practitioner as the case requires.

Provision of information to victims of trafficking in persons.

31. (1) The Director of Public Prosecution shall inform a victim of the offence of trafficking in persons of the progress of the criminal court proceedings and the right to seek compensation.

(2) The Director of Immigration and Nationality Services shall inform a victim of the offence of trafficking in persons of decisions for the return of the victim to his country of citizenship or lawful residence, and the procedures for seeking permanent residency status or citizenship in Belize, where the victim qualifies to apply for permanent residency or citizenship status under the Belize Nationality Act. (CAP. 161.)

Immigration status of victims of trafficking in persons.

32. The Director of Immigration and Nationality Services shall, where a victim is willing to comply with reasonable requests, if any, to assist in the investigation or prosecution of the traffickers, issue an extended stay permit or any other permit pursuant to the Immigration Act authorizing a victim of the offence of trafficking in persons and any dependent children accompanying him to remain in Belize for the duration of the criminal proceedings against the traffickers.

Verification of nationality status of a victim of trafficking in persons.

33. (1) The Ministry responsible for foreign affairs shall, upon a request by the Director of Immigration and Nationality Services, without undue delay verify whether a person who is a victim of trafficking in persons is a citizen of, or holds permanent residency status in any country specified in the request.

(2) A request made under subsection (1) may include a request for the verification of -

- a) the age and name of a person who is a victim of trafficking in persons and who is suspected of being a minor; and
- b) whether the victim is a citizen or permanent resident of the country.

(3) The Minister responsible for foreign affairs shall designate an officer to deal with requests made under this section.

Return of victims to country of citizenship or lawful residency.

34. (1) The Director of Immigration and Nationality Services shall, with the concurrence of the Ministry responsible for human development, develop plans for the safe return of victims of the offence of trafficking in persons to their country of citizenship or lawful residency.

(2) A plan developed under subsection (1) shall take due account that a victim of the offence of trafficking in persons may elect to apply for permanent residency or citizenship of Belize, or remain in Belize during the proceedings against a person charged with the offence of trafficking in persons.

Assistance to victims of trafficking who are unable to prove their nationality status through normal means.

35. (1) The Ministry responsible for foreign affairs shall, through diplomatic channels, assist a victim of the offence of trafficking in persons who is unable to prove his citizenship or nationality status.

(2) In providing assistance under subsection (1), the Ministry responsible for foreign affairs shall take into account the victims alleged connection to any country through factors such as -

- a) place of birth;
- b) presence of family members;
- c) presence of friends;
- d) significant knowledge of specific geographical areas;
- e) long-term residency in the country;
- f) knowledge of the local or, if it be so stated, native or indigenous language of the country; and
- g) any other means.

Special consideration to be given to a child victim

36. In the implementation of any provision of this Act, special consideration shall be given to a victim of the offence of trafficking in persons who is a child, in a manner that is in the child's best interests and appropriate to the situation.

PART 5

FORFEITURE OF ASSETS RELATING TO TRAFFICKING IN PERSONS

Application for forfeiture order

37. The Director of Public Prosecutions may apply to the Supreme Court for a forfeiture order in relation to proceeds of trafficking.

Notice of application

38. (1) Where the Director of Public Prosecutions applies under section 37 for a forfeiture order he shall give to any person who is known to own or control, directly or indirectly, wholly or jointly, or has an interest in the property in respect of which

the application is being made no less than seven days written notice of the application.

(2) A person who claims an interest in the property which is the subject of an application for a forfeiture order, may appear and produce evidence at the hearing of the application.

(3) The Supreme Court may, at any time before the final determination of the application, direct the Director of Public Prosecutions to -

- a) give notice of the application to any person who, in the opinion of the court, appears to have an interest in the property; and
- b) publish in the Gazette or a newspaper published and circulating in Belize, a notice of the application.

**Forfeiture order
on conviction**

39. (1) Where, upon an application by the Director of Public Prosecutions, the court is satisfied that a property is proceeds of trafficking in respect of which a person has been convicted, the court may order that property to be forfeited.

(2) In determining whether property is proceeds of trafficking the court may infer, in the absence of evidence to the contrary –

- a) that the property was in the person's possession at the time of, or immediately after the commission of the offence of trafficking in persons for which the person was convicted;
- b) that the property was derived, obtained or realized as a result of the commission of the offence of trafficking in persons if it was acquired by the person before, during or within six years after the period of the commission of the offence of trafficking in persons of which the person was convicted, and the court is satisfied that the income of that person from sources unrelated to criminal activity of that person cannot reasonably account for the acquisition of that property.

(3) Where the court orders that property, other than money, be forfeited, the court shall specify in the order the amount that it considers to be the value of the property at the time when the order is made.

(4) In considering whether a forfeiture order should be made under subsection (1) the court shall have regard to

- a) the rights and interests, if any, of third parties in the property;
- b) the gravity of the offence of trafficking in persons concerned;
- c) any hardship that may reasonably be expected to be caused to any person by the operation of the order; and
- d) the use that is ordinarily made of the property, or the use to which the property was intended.

(5) Where the court makes a forfeiture order, the court may give such

directions as are necessary or convenient for giving effect to the order.

**Effect of
forfeiture order
on conviction**

40. (1) Subject to subsection (2), where a court makes a forfeiture order against any property, that property shall vest absolutely in the Government by virtue of that order.

(2) Where the property ordered to be forfeited is land

- a) the Government shall be entitled to be registered as the legal owner of that property;
- b) that property shall vest in the Government in equity but does not vest in law until the applicable registration requirements under the Registered Land Act (*CAP 194*) or the Law of Property Act (*CAP 190*), as appropriate, has been complied with; and
- c) the Director of Public Prosecutions shall, on behalf of the Government, do or authorize the doing of anything necessary or convenient to obtain the registration of the Government as the legal owner, including the execution of any instrument to be executed by a person transferring an interest in property of that kind.

(3) Where the court makes a forfeiture order against property –

- a) the property shall not, except with the leave of the court and in accordance with any directions of the court, be disposed of, or otherwise dealt with, by or on behalf of the Government before the relevant appeal date; or
- b) if after the relevant appeal date, the order has not been discharge, the property may be disposed of and the proceeds thereof deposited into the Consolidated Revenue Fund.

(4) In this section “relevant appeal date” used in relation to a forfeiture order made in consequence of a person’s conviction of the offence of trafficking in persons means -

- a) the date on which the period allowed by the Rules of Court for the lodging of an appeal against a person’s conviction or for the lodging of an appeal against the making of the forfeiture order expires without an appeal having been lodged, whichever is the later; or
- b) where an appeal against a person’s conviction or against the making of the forfeiture order is lodged, the date on which the appeal lapses in accordance with the Rules of Court or is finally determined, whichever is the later.

**Forfeiture order
for property**

41. (1) Where, upon application by the Director of Public Prosecutions, the court is satisfied, on a balance of probabilities, that property to which the application relates is property in respect of the offence of trafficking in persons, the court shall order that property be forfeited.

(2) Notwithstanding subsection (1), if a person claiming an interest in the property to which an application relates satisfies the court that he –

- a) has an interest in the property;
- b) has, in the circumstances, exercised reasonable care to ensure that the property is not proceeds of trafficking; the court shall order that the interest of that person shall not be affected by the forfeiture order, and the court shall declare the nature and extent of the interest in question.

(3) If a person obtains an interest in property after it becomes proceeds of trafficking, no order shall be made under subsection (2) in respect of that interest unless the person is a *bona fide* purchaser for value, without reason to suspect that the property is proceeds of trafficking.

(4) Where the court makes a forfeiture order, the court may give such directions as are necessary or convenient for giving effect to the order.

**Voidable
transfers.**

42. The court may –

- a) before making a forfeiture order; and
- b) in the case of property in respect of which a restraining order was made and where the order was duly served,

set aside any transfer of the property that occurred after the seizure of the property or the service of the restraining order, unless the transfer was made for valuable consideration to a person acting in good faith and without notice.

**Protection of
third parties.**

43. (1) Where an application is made for a forfeiture order against property, a person who claims an interest in the property may apply to the court, before the forfeiture order is made, for an order under subsection (2).

(2) Where a person applies to the court for an order under this section in respect of property and the court is satisfied on a balance of probabilities –

- a) that he was not in any way involved in the commission of the offence of trafficking in persons; and
- b) that he acquired the interest during or after the commission

of the offence of trafficking in persons and he acquired the interest -

- i. for sufficient consideration; and
- ii. without knowing, and in circumstance such as not to arouse a reasonable suspicion that the property was, at the time he acquired it, property that was proceeds of crime,

the court shall make an order declaring that his interest shall not be affected by the forfeiture order.

(3) Subject to subsection (4), where a forfeiture order has already been made directing the forfeiture of property, a person who claims an interest in the property may, before the end of the period of 6 months commencing on the day on which the forfeiture order is made, apply under this subsection to the court for an order under subsection (2).

(4) A person who

- a) had knowledge of the application for the forfeiture order before the order was made; or
- b) appeared at the hearing of that application,

shall not be permitted to make an application under subsection (3) except with leave of the court.

(5) A person who makes an application under subsection (1) or (3) shall give to the Director of Public Prosecutions no less than fourteen days written notice of the making of the application and the Director of Public Prosecutions shall be a party to any proceedings in the application.

(6) An applicant or the Director of Public Prosecutions, in accordance with the rules of court, may appeal against an order made under subsection (2).

(7) Any person appointed by the court as a custodian or receiver for property shall, on application by any person who has obtained an order under subsection (2), and where the period allowed by the rules of court with respect to the making of appeals has expired and any appeal from that order has been determined direct that –

- a) the property or part thereof to which the interest of the applicant relates, be returned to the applicant; or
- b) an amount equal to the value of the interest of the applicant, as declared in the order, be paid to the applicant.

**Discharge of
forfeiture order
on appeal and
quashing of
conviction.**

44. (1) Where the court makes a forfeiture order against property in reliance on a persons conviction of the offence of trafficking in persons and the conviction is subsequently quashed, the quashing of the conviction discharges the order.

(2) Where a forfeiture order against property is discharged as provided for in subsection (1), or by the court hearing an appeal against the making of the order, any person who claims to have an interest in the property immediately before the making of the forfeiture order may apply to the Registrar General or the Registrar of Lands, as appropriate, in writing for the transfer of the interest to the person.

(3) On receipt of an application under subsection (2) the Registrar-General or the Registrar of Lands, as appropriate, shall

- a) if the interest is vested in the Government, give directions that the property or part thereof to which the interest of the applicant relates be transferred to that person; or
- b) in any other case, direct that there be payable to that person an amount equal to the interest as at the time the order is made.

(4) In the exercise of his powers under this section, the Registrar General or the Registrar of Lands, as applicable, shall have the power to do or authorize the doing of anything necessary or convenient to effect the transfer or return of the property, including the execution of any instrument and the making of any application for the registration of an interest in the property on any appropriate register.

Payment instead
of a forfeiture
order

45. (1) Where the court is satisfied that a forfeiture order should be made in respect of the property of a person convicted of the offence of trafficking in persons but that the property or any part thereof or interest therein cannot be made subject to such an order and, in particular

- a) cannot, on the exercise of due diligence, be located;
- b) has been transferred to a third party in circumstances which do not give rise to a reasonable inference that the title or interest was transferred for the purpose of avoiding the forfeiture of the property;
- c) is located outside Belize;
- d) has been substantially diminished in value or rendered worthless; or
- e) has been comingled with other property that cannot be divided without difficulty,

the court may, instead of ordering the property or part thereof or interest therein to be forfeited, order the person to pay to the Government an amount equal to the value of the property, part thereof or interest.

(2) Where the court orders a person to pay an amount under subsection (1), that amount shall be treated as if it were a fine imposed upon him in respect of a

conviction for the offence of trafficking in persons.

Default.

46. Where the court orders a person to pay any fine under this Act, notwithstanding any other law, if the person fails to pay, the court shall –

- a) impose in default of the payment of that amount, a term of imprisonment of ten years;
- b) direct that the term of imprisonment imposed pursuant to paragraph (a) be served consecutively to any other term of imprisonment imposed on that person, which that person is then serving; and
- c) direct that the rules regarding the remission of sentences of prisoners serving a term of imprisonment or the rules regarding the release on parole shall not apply in relation to a term of imprisonment, imposed on a person pursuant to paragraph (a).

Seizure and
detention of
cash

47. (1) Where the Director of Public Prosecutions has reasonable grounds to suspect that any cash is or represents property obtained through acts of trafficking in persons, he may seize the cash.

(2) The Director of Public Prosecutions may seize cash, even if it reasonably suspects that only a part of the cash to be cash obtained as a result of the offence of trafficking in persons, where it is not reasonably practicable to seize that part only of the cash.

(3) The Director of Public Prosecutions may exercise his powers under subsection (1), whether or not any proceedings have been brought for an offence in connection with the offence of trafficking in persons.

(4) The Director of Public Prosecutions shall, as soon as is reasonably practicable, apply to a judge in chambers for a detention order with respect to the cash seized under subsection (1).

(5) The judge in chambers shall not make an order for detention of the cash unless he is satisfied that there are reasonable grounds for suspecting that the cash is or represents property obtained through activities of trafficking in persons.

(6) Subject to subsection (8), any order made under subsection (5) shall remain valid for a period of ninety days, and may be renewed for further periods of ninety days by the judge in chambers, until production of the cash before the court in proceedings against any person for the offence of trafficking in persons with which the cash is connected.

(7) Any cash detained under this section shall be held in escrow by the Director of Public Prosecutions pending the completion of the proceedings to which the detained cash relates and if such cash is found to be the proceeds of trafficking it shall vest in the Government and be deposited into the Consolidated Revenue Fund.

(8) A judge in chambers may, by order, release any detained cash-

- a) where the conditions under subsection (5) are no longer met; or
- b) where no proceedings are brought in Belize or elsewhere against any person for an offence relating to the detained cash.

(9) For the purposes of this section, “cash” means

- a) coins and notes in any currency;
- b) postal orders;
- c) traveler’s cheques;
- d) banker’s drafts;
- e) bearer bonds and bearer shares; or
- f) such other monetary instruments as the Minister may prescribe by notice published in the Gazette.

PART 6 MISCELLANEOUS PROVISIONS

Data Collection.

48. (1) The Ministry responsible for human development collection shall collect and publish, once every year in the month of December, statistical data on trafficking in persons in Belize.
- (2) The data referred to in subsection (1) shall include

- a) the number of arrests, prosecutions, convictions and acquittals of traffickers and those committing trafficking-related crimes (such as pimping, pandering, procuring, maintaining a brothel and other crimes related to trafficking);
- b) statistics on the number, age and sexes of the victims;
- c) methods of transportation used, trafficking routes and patterns including countries of origin and transit; and
- d) border crossing issues, including use of fraudulent documents.

Restriction on media reporting and publication.

49. (1) Notwithstanding any written law to the contrary, any mass media report regarding -
- a) any step taken in relation to a victim of the offence of trafficking in persons in any proceedings be it at the pre-trial, trial or post-trial stages;
 - b) any victim of the offence of trafficking in persons in respect of whom custody or protection is accorded under Part 4; or
 - c) any other matters under this Act,

shall not reveal the identity, or any particulars calculated to lead to the identification of any person as being either the victim of the offence of trafficking in persons or a witness to any proceedings.

(2) A picture of –

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

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

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction to a fine of five thousand dollars or to imprisonment for a term of three years or to both.

**Public
awareness
campaigns**

50. (1) The Ministry responsible for human development in collaboration with the Director of Immigration and Nationality Services, Ministry responsible for health and the Police Department shall prepare public awareness programmes designed to educate potential victims of trafficking in persons and their families of the risks of victimization.

(2) The Ministry responsible for human development shall periodically evaluate programmes prepared under subsection (1) to ensure their effectiveness and to recommend other appropriate means of dissemination of information.

**Verification of
legitimacy and
validity of travel
documents.**

51. The Director of Immigration and Nationality Services shall verify, at ports of entry, the legitimacy and validity of travel documents to ensure that they are authentic and are not unlawfully altered, replicated or issued.

Regulations.

52. (1) The Minister with responsibility for human development may make Regulations for any purpose which gives effect to the object of this Act.

(2) Any regulations made pursuant to Subsection (1) shall be subject to negative resolution.

**Protocol to be
part of the laws
of Belize**

53. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, the text of which is set out in the Schedule to this Act shall form part of the laws of Belize.

**Repeal No. 18 of
2003**

54. The Trafficking in Persons Act, 2003 is hereby repealed.

**Savings and
transitional**

55. (1) Notwithstanding the repeal under section 54 of the Trafficking in Persons Act, 2003, any action taken or anything done in exercise of a power conferred by or

under that Act shall be deemed to have been taken or done under this Act.

(2) Regulations made under section 24 of the Trafficking in Persons Act, 2003 shall, in so far as they are not inconsistent with the provisions of this Act, continue in force as if made under section 52 of this Act.

Summary of Offences Under the Trafficking in Persons (Prohibition) Act, 2013

The Human Trafficking Institute

No	Section	Offence	Max Penalty
1	11(1)	Engage, Conspire, Attempt or Assist to TIP	No Fine - 8 Years (12, 25 or LIFE w/ Enhancements)
2	12	Adoption for TIP	\$500 Fine and/or 10 Years (or 25 with Enhancements)
3	13(1)	Intermediary facilitation of a child for sexual activity	No Fine - 10 Years (or 25 with Enhancements)
4	13(2)	Child's controller TIP of child for sexual exploitation	No Fine - 10 Years (or 25 with Enhancements)
5	14	Facilitating or Receives payment for TIP of a child	No Fine - 8 Years
6	15	Profiting from TIP	No Fine - 8 Years
7	16	Advertises for TIP	No Fine - 8 Years
8	17	Owner or Lessee who knowing used for TIP Offense	\$10,000 Fine or 5 Years
9	18	Financial Services to facilitate TIP	\$10,000 Fine or 5 Years (or 25 with Enhancements)
10	19(2)(a)	Human Smuggling	Individual: Fine of \$100,000 and/or 10 years Corporate: Fine of \$250,000
11	19(2)(b)	Human Smuggling for TIP	Individual: Fine of \$100,000 and/or 10 years Corporate: Fine of \$250,000
12	21	Intentional Omission of TIP Information to Authorities	Fine of \$5,000 and/or 3 Years
13	23	Document Servitude	\$10,000 Fine and/or 5 Years
14	49(3)	Publishing Victim Information	\$5,000 Fine and/or 3 Years