

THE OFFICIAL GAZETTE      2<sup>ND</sup> DECEMBER, 2008  
LEGAL SUPPLEMENT — A

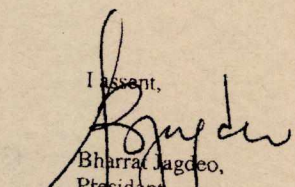
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GUYANA

ACT No. 19 of 2008

**EVIDENCE (AMENDMENT) ACT 2008**

I assent,  
  
Bharrat Jagdeo,  
President  
2<sup>nd</sup> December, 2008

**ARRANGEMENT OF SECTIONS**

**SECTION**

1. Short title.
2. Amendment of the Principal Act.

## AN ACT to amend the Evidence Act.

A.D. 2008

Enacted by the Parliament of Guyana:-

Short title.  
Cap. 5:03

1. This Act, which amends the Evidence Act, may be cited as the Evidence (Amendment) Act 2008.

Amendment  
of the  
Principal  
Act.

2. The Principal Act is amended –

(a) by the insertion immediately after section 73 of the following sections 73A, 73B and 73C -

"Taking oral  
evidence and  
making  
submissions  
by audio  
visual link.

73A. (1) Notwithstanding anything in this Act, the Court may, of its own motion or on the application of any party to any proceedings, whether civil or criminal, order that oral evidence be taken from, or submissions be made by, a person by audio visual link at a place outside the court room where the Court is sitting, whether that place be in or outside Guyana.

(2) An order made under subsection (1) may be made subject to such conditions and safeguards as the Court thinks fit, including but not limited to -

(a) the physical presence of a person specified, either generally or by specific order, by the Court at the place where the audio visual evidence is to be given to act as an observer; and

(b) the payment of expenses incurred in connection with taking the evidence or making submissions by using audio visual link facilities or providing the audio visual link facilities.

(3) The Court shall not make an order under subsection (1) unless the Court is satisfied that -

(a) the necessary audio visual link facilities are available or can reasonably be made available;

(b) the evidence cannot be more conveniently taken in the court room where the Court is sitting; and

(c) the order is required in the interests of justice.

(4) Any oral evidence given or submission made by a person from outside a court room by using audio visual link facilities pursuant to an order made under subsection (1) shall, for the purposes of this Act, be deemed to be the evidence given or submission made in the court room where the Court is sitting.

(5) Evidence shall not be taken by audio visual link unless the court room where the Court is sitting and the place where the evidence is to be given are, to the satisfaction of the Court, equipped with audio visual link facilities that enables -

(a) persons who are in the court room where the Court is sitting to see and hear the person giving the evidence; and

(b) persons who are at the place where the evidence is to be given to see and hear the persons at the court room where the Court is sitting.

(6) An oath or affirmation to be made by a person giving evidence by audio visual link may be administered either -

(a) by means of the audio visual link, as nearly as practicable, in the same way as if the person were giving evidence in the court room where the Court is sitting; or

(b) at the discretion of, or on behalf of, the Court at the place where the person is giving evidence by a person authorised by the Court.

(7) Where the proceedings before the Court involve a jury, and the evidence is taken by audio visual link, the Court shall give the jury such directions as it thinks fit to ensure that the jury gives the same weight to such evidence as if the evidence had been taken in the court room where the Court is sitting.

(8) In this section -

(a) "audio visual link" means facilities, including closed-circuit television that enable video conferencing or audio and visual communication between persons at different places.

(b) "proceedings" includes -

- (i) any proceeding relating to bail;
- (ii) a committal proceeding;
- (iii) where a person has previously been remanded in custody, any subsequent proceeding with respect to the remand of the person in custody for the same offence.
- (iv) any interlocutory proceeding held in connection with any criminal proceeding;
- (v) a trial or a hearing of an appeal;

Legal recognition of use of audio visual link facilities in civil and criminal proceedings.

73B. (1) A requirement by or under any written law that a person shall appear or be brought or be present before a Court is taken to be satisfied if the person appears before the Court by way of an audio visual link pursuant to an order made under section 73A (1).

(2) Any requirement of law for the presence of a person or entitlement of a person under any written law for a person to be present in proceedings before a Court concerning bail is taken to be satisfied if audio visual link is used in relation to the person pursuant to an order made under section 73A (1).

Cap. 3:01

(3) Any entitlement of a person under section 24 of the Court of Appeal Act to be present in proceedings on the hearing of an appeal is taken to be satisfied if audio visual link approved by the Court of Appeal is used in relation to the person.

(4) A Court may allow a person in custody to be produced before the Court by way of audio visual link from the place of detention and such production shall be deemed to be a production or appearance of the person in custody before the Court as required under any law.

Use of audio visual link facilities for identification parades.

73C. Where a person is arrested on the suspicion of a charge of committing an offence and his identification by any other individual is considered necessary for the purpose of investigation of such offence, the Court having jurisdiction may, at the request of the officer in charge of a police station, direct the person so arrested to subject himself, along with at least three other persons as the investigating police officer may suggest, to line-up for identification by the individual in such manner as the Court may deem fit and the Court may permit audio visual link facility to be used for the purpose of the identification parade.”;

(b) by the insertion immediately after section 80, of the following sections as sections 80A and 80B -

“Questions by party who called the witness.

80A. The Court may, in its discretion, permit the party who called a witness to put any questions to that witness which might be put in cross-examination by the opposite party.

Admissibility of statement made by a witness under section 80A.

80B. A statement made by a witness under section 80A shall be admissible in any proceedings as evidence of the facts in issue or relevant thereto, or which may be proved, and it shall be a matter for the Court to determine which of the evidence tendered by the witness is true.”

*Passed by the National Assembly on 16<sup>th</sup> October, 2008.*



S.E. Isaacs,  
Clerk of the National Assembly.

**(BILL No. 22/2008)**