

Bill No. 14 of 1961

PUBLISHED 27TH MAY, 1961.

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CRIMINAL LAW (PROCEDURE) (AMENDMENT) BILL, 1961.

ARRANGEMENT OF SECTIONS

Section

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3. Amendment of section 30 of Chapter 11.
4. Insertion of section 32A in Chapter 11.
5. Insertion of section 55A in Chapter 11.
6. Amendment of section 69 of Chapter 11.
7. Amendment of section 71 of Chapter 11.
8. Amendment of section 84 of Chapter 11.
9. Insertion of section 113A in Chapter 11.
10. Amendment of section 115 of Chapter 11.
11. Repeal and re-enactment of the first schedule to Chapter 11.
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FIRST SCHEDULE

SECOND SCHEDULE

A BILL

Intituled

AN ORDINANCE TO AMEND THE CRIMINAL LAW (PROCEDURE) ORDINANCE.

Enacted by the Legislature of British Guiana:—

1.(1) This Ordinance may be cited as the Criminal Law (Procedure) (Amendment) Ordinance, 1961, and shall be construed and read with the Criminal Law (Procedure) Ordinance, hereinafter referred to as the Principal Ordinance, and any Ordinance amending the same.

Short title
and com-
mencement.
Cap. 11.

(2) Sections 3 and 4 of this Ordinance shall come into operation on such day as the Governor may by order appoint, and different dates may be appointed for different provisions.

2. Paragraph (b) of subsection (5) of section 25 of the Principal Ordinance is hereby repealed and the following paragraph substituted therefor —

Amendment
of section
25 of
Chapter 11.

“(b) Subject to the provisions of this Ordinance the revising officer shall have all the powers of an electoral registrar under rule 19 of the Registration Rules contained in the First Schedule to the Electoral Provisions (Registration) Ordinance, 1961.”

Amendment
of section
30 of Chap-
ter 11.

3. Section 30 of the Principal Ordinance is hereby amended —

(a) by the repeal of paragraph (a) of subsection (1) and the substitution therefor of the following paragraph —

“(a) At a convenient time before any sitting of the Court, the Registrar shall, in the presence of a Judge of the Supreme Court, select from the jurors’ book of the county in which the sitting is to be held a sufficient number of panels as the circumstances may require, each panel consisting of not less than thirty persons whose names are in that book.”

(b) by the insertion after the word “panel” in the third and seventh lines of paragraph (iii) of the proviso to subsection (1) of the words “or panels”;

(c) by the insertion of the following paragraphs in the proviso to subsection (1) —

“(iv) a husband and wife shall not both be summoned to serve at any sitting of the Court;

(v) the number of women appearing on any panel of jurors shall be in the same proportions, as near as may be, to the number of men appearing thereon as the total number of women is to the total number of men in the jurors’ book.”

Insertion
of section
32A in
Chapter 11.

4. The Principal Ordinance is hereby amended by the insertion immediately after section 32 of the following section —

“Composi-
tion of
jury in
certain
cases.

32A.(1) A judge before whom a case is or may be heard may, at any time, in his discretion, on an application made by or on behalf of the prosecutor and the accused or either of them, or at his own instance, order that the jury shall be composed of men only.

(2) Written notice of an intention to make an application under the preceding subsection shall be given by the party intending to make the application to the other party and to the Registrar not later than three days before the first day of the sitting of the Court.

(3) When a judge has ordered that a jury shall be composed of men only, any piece of card or parchment, or ball drawn out of the box under section 37 of this Ordinance which bears the name or number of a woman of the panel shall be set aside.”

Insertion
of section
55A in
Chapter 11.

5. The Principal Ordinance is hereby amended by the insertion immediately after section 55 of the following section —

“Magistrate
may direct
security
to be taken.

55A.(1) Every magistrate issuing a warrant under section 54 of this Ordinance for the arrest of any person in respect of any offence other than murder or treason shall, if in his opinion such person should be admitted to bail on his arrest, by endorsement on the warrant direct that if such person executes a bond with sufficient sureties for his attendance before a magistrate at a specified time and thereafter until otherwise directed by the magistrate, the officer in charge of the police station to which such person is brought on his arrest shall take such security and release such person from custody.

- (2) The endorsement shall state
- (a) the number of sureties;
 - (b) the amount in which they and the person for whose arrest the warrant is issued are to be respectively bound; and
 - (c) the time at which he is to attend before the magistrate.

(3) The officer in charge of any police station to which any such person is brought on his arrest shall comply with the directions endorsed on the warrant of arrest and whenever security is taken under this section he shall forward the bond to the magistrate."

6. Section 69 of the Principal Ordinance is hereby amended by the insertion after the word "trial," of the words "for any indictable offence,".

Amendment of section 69 of Chapter 11.

7. Section 71 of the Principal Ordinance is hereby amended by the insertion after the words "upon his trial" of the words "for any indictable offence,".

Amendment of section 71 of Chapter 11.

8. Subsection (2) of section 84 of the Principal Ordinance is hereby amended —

Amendment of section 84 of Chapter 11.

- (a) by the deletion of the words "for the offence where-with he is charged";
- (b) by the substitution for the words "prison to which he would have been committed to await his trial if he had not been admitted to bail" of the words "magistrate's court nominated by him in pursuance of section 115 of this Ordinance".

9. Section 113 of the Principal Ordinance is hereby amended —

Insertion of section 113A in Chapter 11.

- (a) by renumbering the section as subsection (1); and
- (b) by the insertion of the following subsection as subsection (2) —

"(2) The indictment against the accused person may include, either in substitution for or in addition to counts charging the offence for which he was committed, any counts founded on facts or evidence disclosed in any examination or deposition taken before a magistrate in his presence, being counts which may lawfully be joined in the same indictment."

10. Section 115 of the Principal Ordinance is hereby amended —

Amendment of section 115 of Chapter 11

- (a) by the repeal of subsection (2) and the substitution therefor of the following subsection —

"(2) The Registrar shall four days at least before the day of trial deliver or cause to be delivered—

- (a) to the keeper of the prison to which the accused person has been committed to await trial; or
- (b) to the clerk of the magistrate's court nominated for the purpose by the accused person if and when he is admitted to bail,

a certified copy of the indictment and the copy shall be given to the accused person, if he is in custody by the keeper of the prison, or if he has been admitted to bail, by the clerk of the magistrate's court if and when he calls for it at the magistrate's court."

(b) by the insertion after the word "keeper" in paragraph (a) of subsection (3) of the words "or to the clerk of the magistrate's court".

Repeal and re-enactment of the first schedule to Chapter 11. First Schedule.

11. The first schedule to the Principal Ordinance is hereby repealed and the first schedule to this Ordinance substituted therefor.

Amendment of the Principal Ordinance. Second Schedule.

12. The provisions of the Principal Ordinance specified in the first column of the second schedule to this Ordinance shall have effect subject to the amendments specified in the second column of that schedule.

Repeals.

13. Sections 26, 27 and 43 of the Principal Ordinance are hereby repealed.

Savings.

14. Notwithstanding the provisions of this Ordinance, any jurors' book in force at the commencement of this Ordinance, in so far as such book relates to jurors other than special jurors, shall continue in force until the 31st August, 1961.

FIRST SCHEDULE

Section 11.

Persons exempted from service as Jurors

The Judges of the Supreme Court.
 Members of the Legislature.
 Officers of Her Majesty's navy, army or air force on the active list.
 The Governor's private secretary.
 Public Officers.
 Consuls and consular officers of any foreign government.
 Ministers of Religion and members of religious orders provided they follow no secular occupation.
 Barristers and solicitors in practice and their clerks.
 Registered medical and dental practitioners in practice.
 Registered pharmacists.
 Nurses practising their profession.
 Registered sick-nurses and dispensers.

The following officers of the Mayor and Town Council of Georgetown

The Town Clerk.
 The Accountant.
 The City Engineer.
 The Clerk of Markets.
 The Medical Officer of Health.
 The Chief Public Health Inspector.

The following officers of the Mayor and Town Council of New Amsterdam

The Town Clerk.
 The Accountant.
 The Town Superintendent.
 The Town Engineer.
 The Chief Public Health Inspector.

The following officers of the Georgetown Sewerage and Water Commissioners

The Chief Engineer.
 The Assistant Engineer.
 Overseers of local authorities.
 Members of the Special Constabulary.

SECOND SCHEDULE

Section 12.

Provision

Amendment

Section 20.

The word "male" appearing before the word "person" shall be deleted.

- Section 21 and the proviso to sub-section (1) of section 24. The word "person" shall be substituted for the word "man".
- Section 23. In subsection (1), the words "or as special jurors" shall be deleted.
- In subsection (2), the words "or special jurors" shall be deleted.
- In subsection (3), the words "or as special jurors," shall be deleted.
- In subsection (4), the words "or special juror" shall be deleted.
- Subsection (1) of section 24, subsection (1) of section 40 and Form 1 in the second schedule. The word "persons" shall be substituted for the word "men" wherever it appears.
- Section 44. In subsections (1) and (3), the words "or special juror" shall be deleted.
- Form 12 in the fourth schedule. The words "for the said offence" in the note to the form shall be deleted wherever they appear.
- Form 15 in the fourth schedule. The words "the said charge" in the note to the form shall be deleted from the sub-heading "Trial" under the heading "Recitals".
- The words "for the said offence" in the note to the form shall be deleted from the sub-heading "For trial" under the heading "Period of imprisonment".

OBJECTS AND REASONS

In order to give legislative effect to a United Nations Convention on the Political Rights of Women, this Bill seeks to amend the Criminal Law (Procedure) Ordinance, Chapter 11, to enable women to serve as jurors on the same basis as men.

2. Special juries were abolished in the United Kingdom in 1949, except in commercial cases. The need for special juries no longer exists in British Guiana and clauses 12 and 13 seek to abolish them.

3. Clause 3 seeks to amend section 30 of the Criminal Law (Procedure) Ordinance, Chapter 11, to re-introduce the system which operated prior to 1956 whereby separate panels of jurors were empanelled for each court sitting in the exercise of its criminal jurisdiction. The present practice of summoning one panel of jurors from which juries are empanelled for the number of courts that are sitting has resulted in delays in the hearing of cases. It is considered that the amendment in clause 3 would enable juries to be empanelled more expeditiously.

4. Clause 5 seeks to provide that a magistrate may, when issuing a warrant for the arrest of any person other than for murder or treason, specify the amount of bail to which the accused person may be admitted, so that on arrest he may be released from custody without having to appear before a court to apply for bail.

5. Doubts have been expressed as to whether section 71 of the Criminal Law (Procedure) Ordinance enables a magistrate to commit an accused person for an offence other than that with which he has been charged. This should be the position and clause 7 seeks to clarify the matter. Clause 6 is the corresponding provision to clause 7.

6. Clause 8 seeks to make a consequential amendment to section 84 of the Ordinance in view of the amendments to sections 69, 71 and 115 of the Ordinance.

7. Similarly, a doubt has been expressed whether the law enables the Attorney General to indict an accused person for any offence disclosed on the depositions. The Federal Supreme Court has however affirmed that the Attorney General may indict for any such offence and clause 9 seeks to give legislative force to this fundamental position.

8. It is considered undesirable that an accused person who has been admitted to bail should have to call at a prison for a copy of the indictment against him. Clause 10 seeks to provide that a person shall obtain a copy of the indictment from a magistrate's court, and for the convenience of an accused person living in the rural areas, clause 10 will enable him to nominate a convenient court for this purpose.

9. It is considered that the list of persons exempt from jury service as contained in the first schedule to the Criminal Law (Procedure) Ordinance, should be revised and clause 11 seeks to provide for this.

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(M.P. L. 77).
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