

THE OFFICIAL GAZETTE 7TH AUGUST, 2008
LEGAL SUPPLEMENT - C

BILL No. 20 of 2008

Thursday 7th August, 2008

PARLIAMENT OFFICE
Public Buildings,
Georgetown,
Guyana.

7th August, 2008

The following Bill which will be introduced in the National Assembly is published for general information.

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



GUYANA

BILL No. 20 of 2008

**THE CRIMINAL LAW (PROCEDURE)
(AMENDMENT) BILL 2008**

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Insertion of new section 71A in the Principal Act.

**A BILL
Intituled**

AN ACT to amend the Criminal Law (Procedure) Act.

A.D. 2008 Enacted by the Parliament of Guyana:-

Short title.
Cap. 10:01.

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

Insertion of
new section
71A in the
Principal Act.

2. The Principal Act is amended by inserting, after section 71, the following section -

“Committal or
discharge on
consideration
of statements,
documents,
etc.

71A. (1) The Magistrate holding a preliminary inquiry into an indictable offence may admit as evidence on the part of the prosecutor any statements, documents, writings and other articles tendered to the court in the absence of the witness and cause them to be inventorised and labelled, or otherwise marked as exhibits.

(2) Notwithstanding anything contained in any written law but subject to section 9, if the Magistrate is of opinion that a sufficient case is made out to put the accused person upon trial for any indictable offence on consideration of the statements, documents, writings and other articles admitted as evidence on the part of the prosecutor, he may commit the accused person for trial for the offence.

(3) The Magistrate shall not commit an accused person for trial for the offence where he is not represented by an Attorney-at-Law.

(4) Where on consideration of any statements, documents, writings and other articles and on consideration of any submissions made on behalf of the accused person, the Magistrate is of opinion that a sufficient case is not made out to put the accused person upon his trial for any indictable offence, he may discharge him and in that case any recognisance taken in respect of the charge shall become void.

(5) In addition to any statements, documents, writings and other articles tendered to the court that may be admissible as evidence under this section, the Magistrate -

(a) may, on his own motion or on an application by any party to the proceedings, require any witness to attend before him and give evidence; and

(b) shall allow any party to the proceedings to cross-examine the witness,

and the evidence shall be considered for the purposes of this section to ascertain whether the prosecution has made out *a prima facie* case.

(7) The provisions of sections 60 to 68, section 70 and sections 72 to 74 shall *mutatis mutandis* apply in relation to the proceedings under this section.”

EXPLANATORY MEMORANDUM

This Bill seeks to amend the Criminal Law (Procedure) Act (Cap. 10:02).

Clause 1 of the Bill sets out the short title.

Clause 2 seeks to insert a new section 71A in the Criminal Law (Procedure) Act to provide for empowering the Magistrate holding a preliminary inquiry to admit as evidence on the part of the prosecutor any statements, documents, writings and other articles tendered to the court in the absence of the witness. It further provides for committing the accused person upon his trial for an indictable offence, if the Magistrate is of opinion that a sufficient case is made out on consideration of the statements, documents, writings and other articles or discharging him if the Magistrate is of opinion that no sufficient case is made out.

The procedure outlined in the preceding paragraph may be referred to as a paper committal.

Two purposes can be fulfilled by paper committal using written statements instead of oral testimony alone. These statements may be employed as a means of making the committal procedure more efficient, for the witness, need to attend and recite his evidence is obviated and the court's time is saved. This leaves the court's function substantially unaltered, as the Magistrate must still consider the evidence and determine whether it warrants committal. Also as the legislation permits, the use of written statements can remove from the court the task of examining the sufficiency of the evidence and this create a mechanism which in effect, replaces the committal hearing.



Minister of Home Affairs.