

BILL No. 10 of 2002

Friday 30th August, 2002

PARLIAMENT OFFICE
Public Buildings,
Georgetown,
Guyana.

30th August, 2002.

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. 10 of 2002

PREVENTION OF CRIMES (AMENDMENT) BILL 2002

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Amendment of section 2 of the Principal Act.
3. Amendment of the Principal Act.
4. Amendment of section 4 of the Principal Act.
5. Amendment of section 5 of the Principal Act.

**A BILL
Intituled**

AN ACT to amend the Prevention of Crimes Act.

A.D. 2002 Enacted by the Parliament of Guyana:-

Short title
Cap. 9:01

1. This Act, which amends the Prevention of Crimes Act, may be cited as the Prevention of Crimes (Amendment) Act 2002.

Amendment
of section 2
of the
Principal
Act.

2. Section 2 of the Principal Act is hereby amended by the insertion in the appropriate alphabetical order of the following definitions -

"Commissioner" means the Commissioner of Police;

"deportation order" means an order (however styled) made by an authority of a foreign state which requires the person subject to the order to leave and remain out of the state;

"firearm" has the same meaning as in the Firearms Act;

Cap. 16:05

"specified offence" means an offence constituted by an act or omission which if it took place in Guyana (or in the case of an extra-territorial offence, in corresponding circumstances outside Guyana) would constitute an offence specified in the Schedule and would be punishable under the law of Guyana with imprisonment for a term of two years or any greater punishment.

Schedule

Amendment
of the
Principal
Act.

3. The Principal Act is hereby amended in the following respects -

(a) by the insertion immediately after section 3 of the following section as sections 3A -

"Supervision
of persons
subject to
deportation
order etc.

3A.(1) Subject to subsection (2), the Minister may by order, upon application by the Commissioner and upon being satisfied that it is necessary so to do in the interest of public safety or public order, designate as subject to police supervision any Guyanese citizen -

- (a) who has been convicted of a specified offence in a foreign state;
- (b) who is the subject of a deportation order made in the foreign state or who has elected to return to Guyana from that state in lieu of deportation; and
- (c) whose conduct and activities have been of such a nature that he may be reasonably regarded as constituting a threat to the public safety or public order of Guyana.

(2) The Commissioner shall before making an application under subsection (1) apply to a Judge of

the High Court *ex parte* for permission to make the application giving the reasons therefor.

(3) The Judge shall consider the matter and if the Judge is satisfied that in the circumstances the making of such application would be appropriate, he shall issue a certificate to that effect.

(4) The Commissioner shall when making an application under subsection (1) attach to the application the certificate issued by the Judge pursuant to subsection (3).

(5) An order under subsection (1) may impose restrictions as to residence, reporting to the police, registration, the use or possession of firearms or other weapons, or otherwise as the Minister may deem to be necessary in the interest of public order and public safety.

(6) The restrictions referred to in subsection (5) shall be in force for such period not exceeding one year as the order may specify.

(7) For the purpose of this section a certificate under the hand of the Commissioner to the effect that a person was deported to Guyana from another state or elected to return to Guyana in lieu of deportation, shall be *prima facie* evidence of that fact.";

(b) by the insertion immediately after section 6 of the following section as section 6A -

"6A.(1) Notwithstanding anything in any law, a person deported to Guyana from another state or who elected to return to Guyana from that state in lieu of deportation, upon conviction of a crime in Guyana, shall not be treated as a first offender.

"Conviction in foreign state treated as criminal record.

(2) In sentencing a person referred to in subsection (1) for a crime committed in Guyana, a court shall receive as the evidence circumstances of the person's deportation or return to Guyana and shall give it the same weight and effect as a local criminal record.";

(c) by the insertion of the following Schedule -

"SCHEDULE

(Section 2)

CATEGORIES OF OFFENCES

1. Felonies or indictable offences involving injury to person or malicious damage to property.

Act No. 2 of
1988

2. Offences against the Narcotic, Drugs and Psychotropic Substances Control Act 1988.
3. Offences involving the use or possession of a firearm."

Amendment
of section 4
of the
Principal
Act

4. Section 4 of the Principal Act is hereby amended by the insertion immediately after subsection (3) of the following subsections as subsections (4) and (5) -

"(4) Notwithstanding subsection (2) a person liable to police supervision by virtue of an order made under section 3A shall once in every week or at such other intervals as may be specified, report himself, at the time specified by the Commissioner of Police to the police authorities of the police division where he resides.

(5) Notwithstanding subsection (3) a person liable to police supervision by virtue of an order made under section 3A who contravenes the provisions of any order under section 3A commits an offence and is liable on summary conviction to a fine not less than ten thousand dollars nor more than fifteen thousand dollars and on a second or subsequent conviction to a fine of not less than fifteen thousand dollars nor more than twenty-five thousand dollars and to imprisonment for a term not exceeding one year, unless he proves to the satisfaction of the magistrate before whom he is tried that he did his best to act in conformity with the law."

Amendment
of section 5
of the
Principal
Act.

5. Section 5(1) of the Principal Act is hereby amended by the insertion immediately after the word "Guyana" of the words "or a person subject to police supervision by virtue of an order made under section 3A".

EXPLANATORY MEMORANDUM

This Bill seeks to introduce legislation that allows for Guyanese convicted of certain offences in a foreign state and who are deported to Guyana to be effectively monitored by the Police. As the law now stands, only Guyanese who are convicted of offence within Guyana may be subjected to police supervision.

The amendment proposes to make it possible for certain classes of deportees to Guyana and even persons who have elected to return to Guyana in lieu of deportation to be subject to police supervision. The amendment also purposes to allow the Court in dealing with such an individual for offences committed in Guyana to receive as evidence his foreign criminal record.

Ronald Gajraj,
Minister of Home Affairs.