

CAYMAN ISLANDS



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**THE CRIMINAL PROCEDURE CODE
(AMENDMENT)
LAW, 1986
(LAW 3 OF 1986)**

CAYMAN ISLANDS

Law 3 of 1986

I Assent

PETER LLOYD

Governor

7th April 1986

**A LAW TO AMEND THE CRIMINAL
PROCEDURE CODE
(LAW 13 OF 1975)**

ENACTED by the Legislature of the Cayman Islands.

Short title. 1. This Law may be cited as the Criminal Procedure Code (Amendment) Law, 1986.

Amendment of s. 6 of Law 13 of 1975. 2. Section 6 of the Criminal Procedure Code, in this Law referred to as the Code, is amended by substituting “one thousand” for “two hundred” in paragraph (ii) of subsection (2).

Amendment of s. 21. 3. Section 21 of the Code is amended by substituting a colon for the fullstop and by adding the following proviso:

“Provided that the court may, on the application of a surety at any time, release him wholly or partially and with or without conditions from his obligations under the bond if the court is satisfied that it would be just to do so.”

Insertion of new s. 22A. 4. The Code is amended by inserting the following new section immediately after section 22 -

“Forfeiture of bond.

22A.(1) Where a bond has been executed under section 21 or for the doing by a person of any other thing connected with a proceeding before a court, and it appears to the court that the bond should be forfeited, the court may without prejudice to its

power to issue a warrant under section 22 declare the bond to be forfeited and adjudge the persons bound thereby, whether as principal or sureties, or any of them, to the sum in which they are respectively bound.

(2) The court which declares the bond to be forfeited may at any time, instead of adjudging any person to pay the whole sum in respect of which he is bound, remit the whole or any part thereof either absolutely or on such conditions as it thinks just.

(3) Payment of any sum adjudged to be paid under this section may be enforced by any court as if it were a fine.”.

Insertion of new s. 28A.

5. The Code is amended by inserting the following new section immediately after section 28 -

“Anonymity of complainants in rape etc. cases.

28A.(1) After a person is accused of a rape offence, no matter likely to lead members of the public to identify a woman as the woman against whom the offence is alleged to have been committed shall be published in a written publication available to the public or be broadcast, except as authorised by a direction of the court.

(2) In this section “a rape offence” means rape, attempted rape, conspiracy to commit rape, aiding, abetting, counselling or procuring rape or attempted rape, and incitement to rape.

(3) For the purpose of this section, a person is accused of a rape offence if -

(a) a charge is laid alleging that

- he has committed a rape offence;
- (b) he appears before a court charged with a rape offence;
- (c) a court before which he is appearing commits him for trial on a new charge alleging a rape offence; or
- (d) a bill of indictment charging him with a rape offence is preferred before a court in which he may lawfully be indicted for the offence.

(4) Nothing in this section -

- (a) prohibits the publication or broadcasting, in consequence of an accusation alleging a rape offence, of matter consisting only of a report of legal proceedings other than proceedings at, or intended to lead to, or on an appeal arising out of, a trial at which the accused is charged with that offence;
- (b) affects any prohibition or restriction imposed by virtue of any other law upon a publication or broadcast,

and a direction in pursuance of this section does not affect the operation of subsection (1) at any time before the direction is given.

(5) If any matter is published or broadcast in contravention of subsection (1), the following persons -

- (a) in the case of a publication in a newspaper or periodical, the proprietor, editor and publisher of the newspaper or periodical;
- (b) in the case of any other publication, the person who publishes it;
- (c) in the case of a broadcast, any person having functions, in relation to the programme in which it is made, corresponding

to those of an editor of a newspaper,
shall be guilty of an offence and liable
on summary conviction to a fine not
exceeding one thousand dollars.”.

Insertion of new s. 83A.

6. The Code is amended by inserting the following new section immediately after section 83 -

“Committal for
trial on
written
statements.

83A. Notwithstanding the
other provisions of this Part and
the provisions of subsection (5)
of section 24 of the Evidence
Law, 1978, a magistrate holding
a preliminary enquiry may, if
satisfied that all the evidence
before him (whether for the pro-
secution or the defence) consists
of written statements tendered
to the court under section 24 of
the Evidence Law, 1978, with
or without exhibits, commit the
accused person for trial for the
offence without consideration of
the contents of those state-
ments, unless-

- (a) the accused person or one of
the accused persons is not
represented by a legal prac-
titioner; or
- (b) the legal practitioner for
the accused person or one of
the accused persons, as the
case may be, has objected to
committal in this form or
has requested the court to
consider a submission that
the statements disclose in-
sufficient evidence to com-
mit the accused person for
trial before the Grand
Court.

Amendment of s. 86.

7. Section 86 of the Code is amended by -

- (a) substituting “on oath or remain silent” for “or not and, if he
wishes to make a statement, whether he wishes to make it on
oath, or not” in the last three lines of subsection (1);
- (b) deleting “, either by way of statement or evidence,” in the
first two lines of subsection (2);

Amendment of s. 87.

8. Section 87 of the Code is amended by deleting -

- (a) “or evidence” in the second line of subsection (1);
- (b) “or given evidence” in the fourth line of subsection (1);
- (c) “or evidence” in paragraph (b) of subsection (4);
- (d) “or evidence in defence” in the second and third lines of
subsection (6).

Insertion of new s. 121A.

9. The Code is amended by inserting the following new section
immediately after section 121 -

“Election of
trial by
Judge alone.

121A.(1) If an accused person
is of the opinion that, due
to the nature of the case or of
the surrounding circumstances,
a fair trial with a jury may not
be possible, he may, at any time
before the jury is empanelled,
elect to be tried by a Judge
alone.

(2) Thereupon the trial
shall proceed before a Judge
alone, and mutatis mutandis the
provisions of Part IV shall
apply thereto:
Provided that nothing in
this section shall abridge or
derogate from the powers con-
ferred on a Judge by this or any
other Law.

(3) If any difficulty shall
arise in respect of any such
trial by a Judge alone, the
court may give directions as
to the procedure to be followed
for the removal of such
difficulty.

(4) Where there are two or more
accused persons joined in the same
indictment, the election men-
tioned in subsection (1) shall only
be exercisable by all such accused
persons jointly.”

Amendment of Schedule I.

10. Schedule I of the Code is amended by substituting -

“Abduction for purpose of
marriage or carnal knowledge

Ten years”

for the last two columns of the item
relating to section 118 of the Penal Code.

Passed the Legislative Assembly this 12th day of March, 1986.

PETER LLOYD
President.

E. GAY JACKSON
Clerk of the Legislative Assembly.