

CAYMAN ISLANDS



Supplement No. 1 published with Gazette No. 5
dated 10th March, 2014.

THE POLICE (AMENDMENT) LAW, 2014

(LAW 1 OF 2014)

CAYMAN ISLANDS

Law 1 of 2014.

I Assent

Helen Kilpatrick

Governor.

21st February, 2014

**A LAW TO AMEND THE POLICE LAW, 2010, LAW 36 OF 2010, TO
MAKE THE PROCEDURE FOLLOWING ON THE DETENTION OF
PERSONS IN SECTION 65 CONSISTENT WITH SECTION 5(5) OF THE
CAYMAN ISLANDS CONSTITUTION; AND TO PROVIDE FOR
INCIDENTAL AND CONNECTED PURPOSES**

ENACTED by the Legislature of the Cayman Islands.

1. (1) This Law may be cited as the Police (Amendment) Law, 2014.

Short title and
commencement

(2) This Law shall come into force on such date as may be appointed by order made by the Governor and different dates may be appointed for different provisions of this Law.

2. The Police Law, 2010 is amended in section 65 as follows -

Amendment of section
65 of the Police Law
(Law 36 of 2010) -
detention of persons
arrested without warrant

(a) by repealing subsections (1), (2) and (3) and substituting the following subsections -

“ (1) When a person has been taken into custody without a warrant, that person shall be brought to the custody officer who, not being directly involved in the investigation, shall enquire into the case, and, upon the completion of the enquiry, if there are no reasonable grounds for believing that the person has committed an offence he shall, subject to subsection (3), be released forthwith.

(2) If, upon the completion of the inquiry referred to in subsection (1), there are reasonable grounds for believing that the person arrested has committed an offence, the custody officer may release the person on bail.

(3) Where there is a determination that there is insufficient evidence to charge the person taken into custody but the police officer carrying out the arrest has reasonable grounds for believing that the detention of that person without being charged is necessary to -

- (a) secure or preserve evidence relating to an offence for which the person is under arrest;
- (b) obtain that evidence by questioning him; or
- (c) complete the investigation,

the custody officer who, not being directly involved in the investigation, may authorize the police officer to place that person in detention for such period of time as may be reasonably required up to forty-eight hours from the relevant time as set out in subsection (15).

(3A) The custody officer, at the beginning of each shift, shall -

- (a) conduct an inquiry regarding the progress of the investigation related to any person detained by virtue of this section;
- (b) determine whether the conditions justifying detention under subsection (3) are continuing; and
- (c) where the person detained is not released, inform him of the grounds for his continued detention.

(3B) The person detained may make oral representations on his detention and the custody officer shall record any representation made and the grounds for the continued detention on the custody record based on the criteria for further detention set out in subsection (3).”;

- (b) by repealing subsection (4);
- (c) by repealing subsections (5) and (6) and substituting the following subsections -

“(5) A person shall not be kept in police detention after the period referred to in subsection (3) except where -

- (a) a police officer of the rank of Chief Inspector, or above, who is not directly involved in the investigation determines that the further detention of a person is required to -
 - (i) secure or preserve evidence relating to an arrestable offence for which the person is under arrest;
 - (ii) obtain evidence by questioning him; or
 - (iii) carry out investigations, such investigations being carried out in a diligent and expeditious manner;
- (b) notice of intention to apply for an order for further detention and the grounds for the application are given in writing to the detainee;
- (c) an application is made to the summary court for an order for further detention of the person stating the period of time required, such period being not more than seventy-two hours; and
- (d) the summary court grants the order referred to in paragraphs (b) and (c).

(6) The application made under subsection (5) shall be heard in the presence of the detained person and where the court considers that there are reasonable grounds for believing that -

- (a) the detention of that person without charge is necessary to secure or preserve evidence relating to an offence for which he is under arrest or to obtain such evidence by questioning him;
- (b) an offence for which he is under arrest is an arrestable offence; and
- (c) the investigation is being conducted in a diligent and expeditious manner,

it may order detention for a further period of up to seventy-two hours.

(6A) The hearing under subsection (6) may be held in chambers where the court considers that it is in the interest of justice to do so.

(6B) The person taken into custody or his legal representative may make submissions to the court in relation to an application under subsection (5).”;

- (d) in subsection (9), by deleting the words “in subsections (3), (4), (6), (7) or (8) and substituting the words “in subsections (3), (5), (6), (7) or (8)”;
- (e) in subsection (15), by inserting after paragraph (a) the following paragraph -
 - “(aa)in the case of a person who is either taken for medical treatment at the time of arrest or who is arrested while in a hospital, the time at which that person arrives at the first police station to which he is taken after his arrest;”; and
- (f) by inserting after subsection (15) the following subsection -
 - “(16) For the purposes of this section, where -
 - (a) a person in detention is taken from a police station to a hospital because he is in need of medical treatment; or
 - (b) a person is arrested while in a hospital,

any time utilised by a police officer in questioning him in the hospital, on the way to the hospital or to the police station for the purpose of obtaining evidence relating to an offence, shall be included as part of the period of detention and shall be recorded as such in the custody record as soon as is practicable.”.

Passed by the Legislative Assembly the 31st day of January, 2014.

Anthony S. Eden

Acting Speaker.

Zena Merren-Chin

Clerk of the Legislative Assembly.