



ANGUILLA

A BILL FOR

MAGISTRATE'S CODE OF PROCEDURE (AMENDMENT) ACT, 2016

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I Assent

Christina Scott
Governor

Date

ANGUILLA

No. /2016

A BILL FOR

MAGISTRATES CODE OF PROCEDURE (AMENDMENT) ACT, 2016

An Act to amend the Magistrates Code of Procedure Act, RSA Chap M5 to make paper committals the primary method of committal and for connected matters.

[Gazette Dated: , 2016] [Commencement: Section 57 of the Constitution]

ENACTED by the Legislature of Anguilla

Interpretation

1. In this Act—

“Act” means the Magistrates Code of Procedure Act, RSA Chap M5.

Repeal and substitution of section 42 of the Act

2. Section 42 of the Act is repealed and substituted as follows—

“42. (1) Subject to Division 3 where any charge is brought against any person for an offence not triable summarily, a preliminary inquiry shall be held as hereafter provided.

(2) Section 86 subsection (1) does not apply to a child or young person who is charged with an indictable offence, other than homicide, unless some other person who is charged jointly with him who is not a child or young person is committed for trial and the Magistrate thinks that it is necessary in the interest of justice to also commit the child or young person for trial.”.

Amendment of section 45 of the Act

3. Section 45 of the Act is amended by deleting subsection 5 (b) and substituting it with the following—

“(b) if he does not consent proceed under section 86.”.

Repeal of section 46 of the Act

4. Section 46 of the Act is repealed.

Amendment of section 60 of the Act

5. Section 60 of the Act is amended by deleting the words “You may give those particulars now to this Court or to the Attorney General not later than 7 days after the end of these committal proceedings.” and substituting them with the following—

“You may give these particulars now to the Court or by written statements filed with the Court within the next 7 days.”.

Repeal and substitution of section 73 of the Act

6. Section 73 of the Act is repealed and substituted as follows —

“Notice of application to judge may be given

73. (1) When any person is committed for trial and is kept in custody pending trial, that person, his counsel or solicitor may give notice that he will as soon as counsel can be heard move an application for bail before the High Court.

(2) The presiding officer of the court shall with all convenient speed transmit to the Registrar of the High Court copies of all information, evidence, the warrant of committal and inquest if applicable.”.

Repeal and substitution of Division 3 of the Act

7. Division 3 is repealed and the following is substituted as Division 3 of the Act—

*“Division 3**Preliminary Inquiries: Commitment after assessment of written statements***Committal for trial after consideration of written statements**

86 (1) Notwithstanding any law to the contrary, subject to subsection (2), in respect of the commission of any offence which may result in committal for trial by jury the Court shall assess—

(a) the evidence of the prosecution which shall be in the form of written statements copies of which have been given to the accused; and

(b) any written statements tendered by the defence;

under Division 2 and where it is satisfied that a *prima facie* case has been established have the charge read to the accused.

(2) Subsection (1) does not apply to—

- (a) treason, murder or manslaughter; or
- (b) any offence which the Magistrate in his discretion determines that having regard to the exceptional nature of the offence and the circumstances surrounding its alleged commission that it would be in the interest of justice.

(3) Where subsection (2) applies an inquiry shall be conducted in accordance with the provisions of Division 1.

(4) The assessment referred to in subsection (1) shall be done by the magistrate without calling upon the accused or prosecution for any additional evidence or clarification.

(5) The charge shall be read to the accused in open court as follows—

“You will be committed for trial by jury but I must warn you that at that trial you may not be permitted to give evidence of an alibi or to call witnesses in support of an alibi unless you have earlier given evidence of the alibi and of the witnesses. You may give these particulars now to the Court or by written statements filed with the Court within the next 7 days.”.

(6) Subsection (5) does not apply where it appears to the Court that based on the nature of the alleged offence it is unnecessary to read the charge.

Magistrate to dismiss the charge

87. When the assessment of the written statements are completed and a prima facie case has not been established the Magistrate shall in open court dismiss the charge and where the accused is in custody make an order for his release.

Provisions of Division 1 to supplement procedure in this Division

87A. The provisions of Division 1, save to the extent of their incompatibility with, or exclusion by, the foregoing provisions of this Division apply mutatis mutandis to proceedings under this Division and any reference in any other law or its application thereof to a preliminary inquiry held or thing taken or done under Division 1 shall be construed as references to or be applicable, as the case may be, to the same extent and in like manner to proceedings taken under this Part.”.

Citation

8. This Act may be cited as the—

Magistrates Code of Procedure (Amendment) Act, 2016.

Leroy C. Rogers
Speaker

Passed by the House of Assembly this day of 2016.

Lenox J. Proctor
Clerk of the House of Assembly

OBJECT AND REASONS

The objects and reasons of this Bill is to make paper committal the primary method of committal and for connected matters.

Honourable Rupert Jones
Attorney General