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THE OFFICIAL GAZETTE 6TH APRIL, 2022
LEGAL SUPPLEMENT — C

BILL No. 3 of 2022 *Wednesday 6th April, 2022*

PARLIAMENT OFFICE
Public Buildings,
Georgetown,
Guyana.

6th April, 2022.

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. 3 of 2022

EVIDENCE (AMENDMENT) BILL 2022

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Insertion of new section 63A into the Principal Act.

A BILL

Intituled

AN ACT to amend the Evidence Act.

A.D. 2022 Enacted by the Parliament of Guyana:-

Short title. 1. This Act, which amends the Evidence Act, may be cited as the Evidence (Amendment) Act 2022.

Cap. 5:03

Insertion of new section 63A in the Principal Act. 2. The Principal Act is amended by the insertion immediately after section 63 of the following new section –

"Confession may be given in evidence for co-accused.

63A. (1) In any proceedings a confession made by an accused person may be given in evidence for another person charged in the same proceedings (a co-accused), in so far as it is relevant to any matter in issue in the proceedings and is not excluded by the court in pursuance of this section.

(2) If, in any proceedings where a co-accused proposes to give in evidence a confession made by an accused person, it is represented to the court that the confession was or may have been obtained-

(a) by oppression of the person who made it; or

(b) in consequence of anything said or done which was likely, in the circumstances existing at the time, to render unreliable any confession which might be made by him in consequence thereof,

the court shall not allow the confession to be given in evidence for the co-accused except in so far as it is proved to the court on the balance of probabilities that the confession, notwithstanding that it may be true, was not so obtained.

(3) Before allowing a confession made by an accused person to be given in evidence for a co-accused in any proceedings, the court may of its own motion require the fact that the confession was not obtained as mentioned in subsection (2) to be proved in the proceedings on the balance of probabilities.

(4) The fact that a confession is wholly or partly excluded in pursuance of this section shall not affect the admissibility in evidence-

(a) of any facts discovered as a result of the confession; or

(b) where the confession is relevant as showing that the accused speaks, writes or expresses himself in a particular way, of so much of the confession as is necessary to show that he does so.

(5) Evidence that a fact to which this subsection applies was discovered as a result of a statement made by an accused person shall not be admissible unless evidence of how it was discovered is given by him or on his behalf.

(6) Subsection (5) applies-

(a) to any fact discovered as a result of a confession which is wholly excluded in pursuance of this section; and

(b) to any fact discovered as a result of a confession which is partly so excluded, if the fact is discovered as a result of the excluded part of the confession.

(7) In this section, "oppression" includes torture, inhuman or degrading treatment, and the use or threat of violence whether or not amounting to torture.".

Explanatory Memorandum

The purpose of this Bill is to amend the Evidence Act, Cap. 5:03.

Clause 2 of the Bill seeks to insert a new section 63A into the Principal Act to provide that in any proceedings a confession made by an accused person may be given in evidence for a co-accused where it is relevant to any matter in issue in the proceedings and is not excluded by the court.

In accordance with this proposed new section, the confession may be excluded by the court if that confession is obtained by oppression or is rendered unreliable. 'Oppression' is defined as including torture, inhuman or degrading treatment, and the use or threat of violence whether or not amounting to torture. Accordingly, the co-accused would only need to satisfy the court on the balance of probabilities that the confession was not obtained by oppression or in circumstances likely to render it unreliable.

Moreover, this amendment provides that the exclusion of a confession does not affect the admissibility of facts discovered as a result of that confession.

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Hon. Mohabir Anil Nandlall, SC, MP
Attorney General and
Minister of Legal Affairs