The Official Gazette

(EXTRAORDINARY)

OF GUYANA

Published by the Authority of the Government

GEORGETOWN, FRIDAY 3RD MAY, 2024

TABLE OF CONTENTS **PAGE**

FIRST SUPPLEMENT

LEGAL SUPPLEMENT

A. **ACTS — NIL**

B. **SUBSIDIARY LEGISLATION — NIL**

C. **BILLS —** BILL No. 6 of 2024 – The Fugitive Offenders (Amendment) Act 2024 … … … … … 101

GEORGETOWN, Demerara – Printed and Published every Saturday and on such Extraordinary Days as may be directed by the Government by Guyana National Printers Limited, 1 Public Road, La Penitence, Greater Georgetown.

FRIDAY 3RD MAY, 2024

THE OFFICIAL GAZETTE 3RD MAY, 2024
LEGAL SUPPLEMENT — C

BILL No. 6 of 2024 *Friday 3rd May, 2024*

PARLIAMENT OFFICE
Public Buildings,
Georgetown,
Guyana.

3rd May, 2024

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. 6 of 2024

FUGITIVE OFFENDERS (AMENDMENT) BILL 2024

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Amendment of section 24 of the Principal Act.

A BILL

Intituled

AN ACT to amend the Fugitive Offenders Act.

A.D. 2024 Enacted by the Parliament of Guyana: -

Short title.
Cap. 10:04

1. This Act, which amends the Fugitive Offenders Act, may be cited as the Fugitive Offenders (Amendment) Act 2024.

Amendment of section 24 of the Principal Act.

2. Section 24 of the Principal Act is amended as follows –

(a) in subsection (1) –

(i) in paragraph (b), by deleting the word "and";

(ii) in paragraph (c), by substituting for the full stop a semicolon;

(iii)by inserting immediately after paragraph (c), as so amended, the following paragraph –

" (d) a record of evidence of the case against the person, including evidence that would not otherwise be admissible under the laws of Guyana, shall be admissible in evidence.";

(b) by inserting immediately after subsection (3), the following subsections –

" (4) A record of evidence of the case against a person referred to in subsection (1)(d) is admissible in evidence if it is accompanied by-

(a) an affidavit from an officer of the investigating authority, or of the prosecutor, as the case may be, stating that the record of evidence of the case was

prepared by, or under the direction of, that officer or that prosecutor and that the evidence has been preserved for use in the person's trial; and

(b) a certificate bearing an official seal or stamp of a person described in subsection (5) stating that, in the opinion of that person, the record of the evidence of the case discloses the existence of evidence that is sufficient under the law of the Commonwealth country or treaty territory to justify a prosecution in that country or that territory.

(5) A person referred to in subsection (4)(b) is –

(a) the Attorney General or principal law officer of the Commonwealth country or treaty territory, or the deputy to or delegate of the Attorney General or principal law officer of the Commonwealth country or treaty territory; or

(b) any other person who has, under the law of the Commonwealth country or treaty territory, control over the decision to prosecute.

(6) Nothing in this section limits the evidence that may be admitted at any hearing to determine whether a person is liable to be extradited.

(7) A certificate under subsection (4)(b) purported to have been signed by a person described in subsection (5) shall be admitted by a court without proof of the signature or official character of the person appearing to have signed it.

(8) Without limiting subsections (4), (6) and (7), in any proceedings under this Act where direct oral evidence of a fact or opinion would be admissible, a statement made in any deposition or witness statement, official certificate or judicial document taken, given or made outside Guyana and tending to establish that fact or opinion is, if duly authenticated, admissible as evidence of that fact or opinion.

(9) A translation of a document into English shall be admitted into evidence only where it is certified by a judicial, prosecuting or penal authority, or other officer administering a government department, of a Commonwealth country or treaty territory and purports to be an accurate translation of the original document.

(10) In this section –

"document" means data recorded in any form, and includes photographs and copies of documents;

"judicial document" means a document which purports to be certified by a judge, magistrate or a duly authorised officer of the relevant court in or of a Commonwealth country or treaty territory;

"record of the evidence of the case" includes –

(i) documents, statements or other evidence including photographs, fingerprints or other descriptions of the person which describes the identity and probable location of the person sought;

(ii) a statement of the facts of the case, including, if possible, the time and location of the offence;

(iii) a statement of the provisions of the law describing the essential elements and the

designation of the offence for which extradition is requested;

(iv) a statement of the provisions of the law prescribing the punishment for the offence; and

(v) any other relevant documents.".

EXPLANATORY MEMORANDUM

The Bill seeks to amend section 24 of the **Fugitive Offenders Act, Cap. 10:04**, which provides for the types of documents that may be admissible as evidence in extradition proceedings or other applications made under the Principal Act. This Bill seeks to expand the types of documents that shall be admissible in evidence by providing for the admissibility of a record of evidence of a case and the procedural requirements for the admissibility of such evidence.

Clause 2 of the Bill amends subsection (1) of section 24 by inserting a new paragraph (d) which provides that a record of evidence of the case against the person, including evidence that would not otherwise be admissible under the laws of Guyana, shall be admissible in evidence in proceedings under the Act. A record of evidence of the case, as defined in this Bill, includes (i) documents, statements or other evidence which describes the identity and probable location of the person sought; (ii) a statement of the facts of the case, including, if possible, the time and location of the offence; (iii) a statement of the provisions of the law describing the essential elements and the designation of the offence for which extradition is requested; (iv) a statement of the provisions of the law prescribing the punishment for the offence and (v) any other relevant documents.

Clause 2 further amends section 24 by inserting new subsections (4), (5), (6), (7), (8), (9) and (10) which provide for the procedural requirements for the admission of a record of evidence of the case against a person, as well as other connected matters.

New subsections (4) and (5) provide for the procedural documents that must accompany a record of evidence of a case. A record of evidence of a case against a person shall be admissible in evidence if it is accompanied by an affidavit from an officer of the investigating authority, or of the prosecutor, as the case may be, stating that the record of evidence of the case was prepared by, or under the direction of, that officer or that prosecutor and that the evidence has been preserved for use in the person's trial. It must also be accompanied by a certificate bearing an official seal or stamp of the Attorney General or principal law officer of the Commonwealth country or treaty territory, or the respective deputy or delegate of the Attorney General or

principal law officer, or any other person who has control over the decision to prosecute, stating that, in the opinion of that person, the record of the evidence of the case discloses the existence of evidence that is sufficient under the law of the Commonwealth country or treaty territory to justify a prosecution in that country or that territory.

New subsection (6) provides that nothing in section 24 limits the evidence that may be admitted at any hearing to determine whether a person is liable to be extradited.

New subsection (7) provides a certificate under subsection (4)(b) purported to have been signed by a person described in subsection (5) shall be admitted by a court without proof of the signature or official character of the person appearing to have signed it

In addition**, new subsection (8)** provides that, without limiting subsections (4), (6) and (7), in any proceedings under the Principal Act where direct oral evidence of a fact or opinion would be admissible, a statement made in any deposition or witness statement, official certificate or judicial document taken, given or made outside Guyana and tending to establish that fact or opinion is, if duly authenticated, admissible as evidence of that fact or opinion.

New subsection (9) provides for the treatment of translated documents and their admissibility. It provides that a translation of a document into English shall be admitted into evidence only where it is certified by a judicial, prosecuting or penal authority, or other officer administering a government department, of a Commonwealth country or treaty territory and purports to be an accurate translation of the original document.

Finally, **new subsection (10)** sets out the definitions of terms used in the section, that being, "document", "record of the evidence of a case" and "judicial document", respectively.

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