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THE OFFICIAL GAZETTE 1ST NOVEMBER, 2022
LEGAL SUPPLEMENT – C

BILL No. 21 of 2022

Tuesday 1st November, 2022

PARLIAMENT OFFICE
Public Buildings,
Georgetown,
Guyana.

1st November, 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. 21 of 2022

CRIMINAL LAW (PROCEDURE) (AMENDMENT) BILL 2022

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Amendment of section 72 of the Principal Act.

A BILL

Intituled

AN ACT to amend the Criminal Law (Procedure) Act.

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

Short title. Cap. 10:01

1. This Act, which amends the Criminal Law (Procedure) Act, may be cited as the Criminal Law (Procedure) (Amendment) Act 2022.

Amendment of section 72 of the Principal Act.

2. Section 72 of the Principal Act is amended by the substitution for that section, of the following –

"Power of Director of Public Prosecutions after discharge of accused person.

72. (1) In every case where a magistrate discharges an accused person under section 69 or 71A (4), the Director of Public Prosecutions may make a written request to the magistrate to furnish an authenticated copy of the depositions taken at the preliminary inquiry and every other statement, document or thing relating to those proceedings and the magistrate shall comply with the request.

(2) Where the Director of Public Prosecutions, after considering the depositions and any other statement, document or thing furnished by the magistrate under subsection (1), is of the opinion that a *prima facie* case against the discharged person was established and the discharged person should have been committed for trial, the Director of Public Prosecutions shall make an application to a Judge of the High Court for a warrant for the arrest and committal for trial of the discharged person:

Provided that a Judge shall only grant the application of the Director of Public Prosecutions where the Judge is satisfied that the evidence, as given before the magistrate, was sufficient to commit the discharged person for trial.

(3) Every application under subsection (2) shall be made within three calendar months of the discharge of the accused person.

(4) Where a Judge grants an application for the arrest and committal for trial of a discharged person under subsection (2), the Judge shall issue the warrant for the arrest and committal for trial of the discharged person and that person shall be kept until otherwise discharged in the due course of law or granted bail.

(5) Every person proceeded against under subsection (4), shall be further prosecuted in the like manner as if that person had been committed for trial by the magistrate by whom the person was discharged.

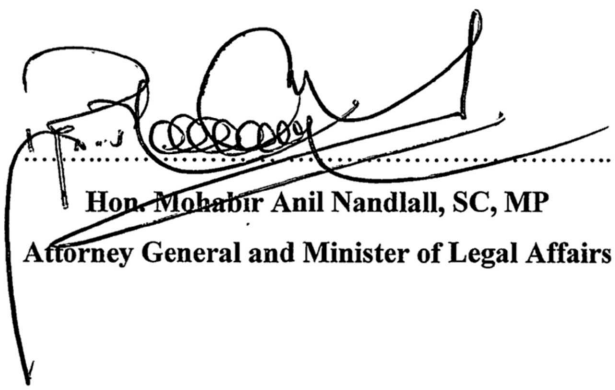
(6) Where the Director of Public Prosecutions or the discharged person is aggrieved by a decision of the Judge under this section, an appeal of that decision shall lie to the Court of Appeal.".

EXPLANATORY MEMORANDUM

The Criminal Law (Procedure) (Amendment) Bill 2022 provides for the amendment of section 72 of the Criminal Law (Procedure) Act, Cap. 10:01.

By the amendment of section 72 of the Principal Act, the repugnance between the Constitution and that section, as pronounced upon by the Caribbean Court of Justice in the case of **Marcus Bisram v. The Director of Public Prosecutions [2022] CCJ 7 AJ (GY)**, is removed.

The Director of Public Prosecutions may now make an application to a Judge of the High Court for a warrant to arrest and commit an accused person who was discharged by a magistrate under section 69 or 71A (4) of the Principal Act where the Director of Public Prosecutions is of the view that, on a review of the evidence placed before the magistrate, the discharged person ought to have been committed to trial. The Judge may only grant that application if he or she is also of the view, from the evidence as was placed before the magistrate who discharged the accused person, that such a course of action is required. Both the Director of Public Prosecutions and the discharged person shall have the right to appeal to the Court of Appeal.



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