

NOTICE OF AMENDMENT

Criminal Procedure and evidence (Amendment) Bill, 2015 (H B. 2, 2015)

AMENDMENT OF CLAUSE 2

BY THE MINISTER OF JUSTICE, LEGAL AND PARLIAMENTARY AFFAIRS

On page 2 of the bill, in line 31, delete the definition of “medical officer” and substitute with the following—

“medical officer” means a —

- (a) medical practitioner; or
- (b) State Registered Nurse;

employed wholly or mainly or on a part-time basis by the Police Services, the Prisons and Correctional Services or other organ of State, or a local authority;

AMENDMENT OF CLAUSE 3

BY THE MINISTER OF JUSTICE, LEGAL AND PARLIAMENTARY AFFAIRS

On page 4 of the bill, section 10, in line 18, delete the word “sentence”.

On page 4 of the bill, after line 21, insert the following subsection in the new section 10 and the existing section becoming subsection (1)—

“(2) If, in the opinion of the Prosecutor-General, the accused person has been wrongly convicted by the court, the Prosecutor-General may, at any stage after conviction, make representations to the court that—

- (a) there is compelling evidence that exonerates the convicted person of the offence; or
- (b) compelling evidence incriminating a person other than the convicted person has been brought to the Prosecutor-General’s knowledge; or
- (c) new evidence obtained links the convicted person to a lesser offence and not to the offence for which he or she was convicted;

and that the evidence referred to in paragraph (a), (b) or (c) was not within the Prosecutor-General’s knowledge at the time of the trial.

(3) Upon hearing the representations of the Prosecutor-General, the court may—

- (a) uphold the conviction; or
- (b) set aside the conviction and liberate the convicted person; or
- (c) make such order or give such directions as it deems fit.

(4) If the Prosecutor General is dissatisfied with the court’s decision in terms of subsection (3), the Prosecutor-General may appeal against such decision to a superior court.

(5) On an appeal by the Prosecutor-General in terms of subsection (4), the superior court may—

- (a) confirm the decision made in terms of subsection (3); or
- (b) remit the case to the convicting court for sentencing; or
- (c) make such order or give such directions as it deems fit.”

CLAUSE 6 (AMENDMENT OF SECTION 16 OF CAP. 9:07)

BY HON MAJOME:

Delete Clause 6 of the Bill (excluding non-juristic private prosecutor).

AMENDMENT OF CLAUSE 12

BY THE MINISTER OF JUSTICE, LEGAL AND PARLIAMENTARY AFFAIRS:

On page 7 of the bill, insert the following subsection in the new section 39B (“Police officers may restrain, etc., persons in certain circumstances without intention to arrest”)—

“(3) Whenever the police exercise their powers in terms of subsection (1), the police shall, as soon as possible, record in their occurrence book as defined section 47, the particulars of the detained person and the reasons for such detention.”.

BY HON MAJOME:

To delete Clause 12 on criminalizing voluntary attendance at police stations.

AMENDMENT OF CLAUSE 14

BY THE MINISTER OF JUSTICE, LEGAL AND PARLIAMENTARY AFFAIRS

On page 12 of the bill, in line 43, delete the words “blood, saliva or tissue” and substitute with “bodily”.

BY HON MAJOME:

To delete 14 (2) on presumption of understanding the English Language.

CLAUSE 18

BY HON MAJOME:

To amend Section 50 (1) (a) and 33 (1) to require the issuer of a warrant of arrest and /or search to personally entertain reasonable suspicion of offence.

AMENDMENT OF CLAUSE 24

BY THE MINISTER OF JUSTICE, LEGAL AND PARLIAMENTARY AFFAIRS

On page 22, in line 37, delete the word “its” and substitute with “it”.

AMENDMENT OF SECTION 121 OF CAP. 9:07

BY THE MINISTER OF JUSTICE, LEGAL AND PARLIAMENTARY AFFAIRS

On page 27 of the bill, after line 23 and after clause 29, insert the following and renumber the succeeding clauses accordingly—

30 Amendment of section 121 of Cap. 9:07

Section 121 (“Appeals against decisions regarding bail”) of the principal Act is amended—

(a) by the repeal of subsection (1) and the substitution of—

“(1) Subject to this section, where a judge or magistrate has admitted or refused to admit a person to bail—

(a) the Prosecutor-General or the public prosecutor, within forty-eight hours of the decision; or

(b) the person concerned, at any time;

any may appeal against the admission to or refusal to bail or the amount fixed as bail or conditions imposed in connection with bail.”;

(b) by the repeal of subsection (3) and the substitution of—

“(3) Where a judge or magistrate has admitted a person to bail and the judge or magistrate is notified immediately after the decision that the Prosecutor-General or a public prosecutor wishes to appeal against the decision, the judge or magistrate shall order the person to remain in custody until the appeal is determined:

Provided that the person shall not remain in custody under such an order for longer than forty-eight hours unless, within that period, the Prosecutor-General or public prosecutor lodges the appeal.”;

(c) in subsection (6) by the deletion of “Subsections (2) to (6) of section *one hundred and sixteen*” and the substitution of “Subsections 117 (2) to (6)”.