

CAYMAN ISLANDS



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**A BILL FOR A LAW TO AMEND THE CRIMINAL PROCEDURE  
CODE (2017 REVISION) TO PROVIDE FOR CONSISTENCY BETWEEN  
THE PROCEDURES IN THE SUMMARY COURT AND THE GRAND  
COURT AT THE CONCLUSION OF THE PROSECUTION CASE; TO  
PROVIDE FOR THE TRANSMITTAL OF CATEGORY C OFFENCES IN  
CERTAIN INSTANCES; AND FOR INCIDENTAL AND CONNECTED  
PURPOSES**



**THE CRIMINAL PROCEDURE CODE (AMENDMENT) BILL, 2018**

**MEMORANDUM OF OBJECTS AND REASONS**

This Bill amends the Criminal Procedure Code (2017 Revision) to provide for consistency between the procedures in the Summary Court and the Grand Court at the conclusion of the prosecution case. It also provides for the transmittal of Category C offences in certain instances.

Clause 1 of the Bill provides the short title.

Clause 2 amends section 70 to make provision for the court to acquit the accused where at the close of the prosecution case the prosecution has not established a *prima facie* case. This provision would bring the Summary Court procedures in line with those of the Grand Court.

Clause 3 amends section 75 to make it clear that the burden of proof is beyond a reasonable doubt. This provision would also bring the Summary Court procedures in line with those of the Grand Court.

Clause 4 amends section 85A to provide for the transmittal to the Grand Court of a Category C offence where the Category C offence is related to the commission of a Category A offence.

**THE CRIMINAL PROCEDURE CODE (AMENDMENT) BILL, 2018**

**ARRANGEMENT OF CLAUSES**

1. Short title
2. Amendment of section 70 of the Criminal Procedure Code (2017 Revision)  
- acquittal of accused person if no case to answer
3. Amendment of section 75 - the decision of the court
4. Amendment of section 85A - no preliminary enquiry for Category A offences

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**A BILL FOR A LAW TO AMEND THE CRIMINAL PROCEDURE CODE (2017 REVISION) TO PROVIDE FOR CONSISTENCY BETWEEN THE PROCEDURES IN THE SUMMARY COURT AND THE GRAND COURT AT THE CONCLUSION OF THE PROSECUTION CASE; TO PROVIDE FOR THE TRANSMITTAL TO THE GRAND COURT OF CATEGORY C OFFENCES IN CERTAIN INSTANCES; AND FOR INCIDENTAL AND CONNECTED PURPOSES**

ENACTED by the Legislature of the Cayman Islands.

1. This Law may be cited as the Criminal Procedure Code (Amendment) Law, 2018. Short title
  
2. The Criminal Procedure Code (2017 Revision), in this Law referred to as the “principal Law”, is amended by repealing section 70 and substituting the following section - Amendment of section 70 of the Criminal Procedure Code (2017 Revision) - acquittal of accused person if no case to answer

“70. If at the close of the case for the prosecution the court considers that a *prima facie* case on the evidence presented has not been established, the court shall acquit the accused or in any other case, the court shall proceed to hear the case for the accused.”.
  
3. The principal Law is amended by repealing section 75 and substituting the following section - Amendment of section 75 - the decision of the court

“75. (1) The court, having heard both the prosecutor and the accused person and their witnesses, shall either -

- (a) convict the accused, if satisfied of his guilt beyond a reasonable doubt and pass sentence upon him or make an order against him according to law and may, in its discretion, record or not record a conviction; or
- (b) acquit him.

(2) Notwithstanding subsection (1), the Court may, if it is of the opinion that it is not expedient to inflict any punishment notwithstanding that it finds the charge against the accused is proved, make an order discharging the accused absolutely or conditionally but no such order of discharge shall be made in respect of any prosecution instituted under sections 82 to 85 of the Traffic Law, 2011.”.

Amendment of section 85A - no preliminary enquiry for Category A offences

4. The principal Law is amended in section 85A by repealing subsections (1), (2) and (3) and substituting the following sections -

“(1) Where a charge has been brought in a Summary Court against a person in respect of a Category A offence, the court shall transmit the matter forthwith to the Grand Court for hearing and if that person is also charged with an offence which may be tried -

- (a) either summarily or on indictment; or
- (b) summarily only being an offence punishable by imprisonment,

and the commission of that other offence appears to the court to be related to the commission of the Category A offence the court shall also transmit that matter forthwith to the Grand Court for hearing.

(2) Where the court transmits a matter for hearing under subsection (1) and -

- (a) another person appears or is brought before the court on the same or a subsequent occasion charged jointly or may be tried jointly with the person referred to in subsection (1) for an offence which may be tried -
  - (i) either summarily or on indictment; or
  - (ii) summarily only being an offence punishable by imprisonment; and
- (b) that offence appears to the court to be related to the Category A offence,

the court shall where it is the same occasion, and may where it is a

subsequent occasion, transmit the matter forthwith to the Grand Court for hearing.

(3) Where the court transmits a matter for hearing under subsection (1) or (2), it shall at the same time transmit any other matter to the Grand Court for hearing where that other matter -

- (a) arises from an offence which may be tried either summarily or on indictment; or
- (b) is a summary offence punishable with imprisonment,

and is related to the Category A offence.”.

Passed by the Legislative Assembly the                      day of                      2018.

Speaker.

Clerk of the Legislative Assembly.