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CRIMINAL PROCEDURE CODE (AMENDMENT) ACT, 2011

AN ACT TO AMEND THE CRIMINAL PROCEDURE CODE

(Date of Assent – 3rd November, 2011)

Enacted by the Parliament of The Bahamas

1. Short title.

This Act, which amends the Criminal Procedure Code Act (*Ch. 91*), may be cited as the Criminal Procedure Code (Amendment) Act, 2011.

2. Amendment of section 7 of the principal Act.

Subsection (2) of section 7 of the principal Act is amended by deleting the word “five” and substituting therefor the word “seven”.

3. Amendment of section 9 of the principal Act.

Subsection (2) of section 9 of the principal Act is amended by deleting the word “five” and substituting therefor the word “seven”.

4. Amendment of section 19 of the principal Act.

Subsection (1) of section 19 of the principal Act is amended by deleting the words “forty-eight” and substituting therefor the words “seventy-two”.

5. Amendment of section 120 of the principal Act.

Section 120 of the principal Act is amended —

(a) in subsection (1) by —

- (i) deleting from paragraph (b) the word "and" and substituting therefor the word "or";
- (ii) deleting the words "survey or examination" and substituting therefor the words "survey, examination or report";
- (b) in subsection (4) inserting immediately after the words "firearms technician" the words ", firearms licensing officer".

6. Amendment of section 170 of the principal Act.

Section 170 of the principal Act is amended —

- (a) at subsection (2) by deleting the words, " , or to make an unsworn statement";
- (b) by inserting next after subsection (2) the following as subsection (3)
—
“(3) Any law, whether written or otherwise, procedure or practice that permits a person who is charged with the commission of a criminal offence to make an unsworn statement in answer to the charge is hereby abolished.”.

7. Amendment of section 173 of the principal Act.

Section 173 of the principal Act is amended by inserting next after subsection (9) the following as subsection (10) —

- “(10) The court shall direct the jury that adverse inferences may be drawn where the alibi notice requirements under this section and under paragraph (4A)(a) section 258 are not complied with on a timely basis or are not complied with at all.”.

8. Repeal and replacement of section 176 of the principal Act.

Section 176 of the principal Act is amended by deleting the section and substituting therefor the following —

“176. Order of speeches.

Where an accused person is represented by counsel or where he is not so represented but calls witnesses as to fact in his defence, the accused person, or his counsel, shall be entitled to address the court for a second time and the counsel for the prosecution shall be entitled to address the court after the accused person, or his counsel, has made his address.”.

9. Repeal and replacement of section 185 of the principal Act.

Section 185 of the principal Act is amended by deleting the section and substituting therefor the following —

“185. Evidence for arriving at proper sentence.

- (1) The court may, before handing down a sentence, receive such evidence as it thinks fit in order to inform itself as to the proper sentence to be handed down and may receive any relevant representation from the victim or otherwise hear counsel for the defence and the prosecution on any mitigating or aggravating circumstances that may be relevant.
- (2) For the purposes of this section, “victim” in relation to an offence means —
 - (a) the person to whom harm is done or who suffers physical or emotional loss as a result of the commission of the offence;
 - (b) the spouse or any relative of that person in paragraph (a) or the guardian of that person where, as the case may be, he is dead or otherwise incapable of making a statement referred to in subsection (1).

10. Repeal and replacement of section 213 of the principal Act.

Section 213 of the principal Act is amended by deleting the section and substituting therefor the following —

“213. Limitation of time for proceedings for summary offences.

- (1) Subject to subsection (2), no offence that is triable summarily shall be triable by a magistrate’s court unless the charge or complaint relating to it is laid within six months from the time when the matter of such complaint or charge arose, so, however that if the circumstances giving rise to the complaint or charge occurred upon a vessel upon the high seas, then the court shall have jurisdiction in respect thereof where the complaint or charge was laid within six months after the arrival of the vessel at her port of discharge in The Bahamas.
- (2) The provisions in subsection (1) shall not apply where —
 - (a) a longer period of time is specially allowed by law;
 - (b) the offence is an indictable offence triable summarily.”.

11. Amendment of section 235 of the principal Act.

Subsection (2) of section 235 of the principal Act is amended by inserting immediately after the word "party" the words "or his counsel" wherever it appears.

12. Amendment of section 237 of the principal Act.

Subsection (1) of section 237 of the principal Act is amended —

- (a) by the inserting the words immediately after the words "order or judgment" the words "in accordance with section 108 of this Act"; and
- (b) deleting the words "and all papers relating to the appeal".

13. Amendment of section 258 of the principal Act.

The principal Act is amended by —

- (a) inserting next after subsection (4) the following as subsection (4A) —

"(4A) Where a voluntary bill of indictment and summons have been produced to a magistrate pursuant to subsection (4), the magistrate shall —

- (a) carefully explain to the accused that should he wish to adduce evidence of an alibi at his trial before the court he would not be able to do so unless he gives notice of particulars of the alibi and the witnesses he intends to call in support of that alibi to the Attorney-General within 21 days from the end of the preliminary inquiry;
 - (b) give to the accused a written notice of the explanation under paragraph (a)."; and
- (b) deleting subsection (10)."