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I assent,

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CUTHBERT M SEBASTIAN

Governor-General

6<sup>th</sup> February 2006

SAINT CHRISTOPHER AND NEVIS

No. 33 of 2005

AN ACT to amend the **Magistrate's Code of Procedure Act** Chapter 46 in order to expand the jurisdiction of Magistrates, and to provide for related or incidental matters.

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the National Assembly of Saint Christopher and Nevis and by the authority of the same as follows:

- 1. This Act may be cited as the **Magistrate's Code of Procedure (Amendment) Act, 2005.** Short title.
- 2. In this Act, unless the context otherwise requires, "Act" means the **Magistrate's Code of Procedure Act, Chapter 46.** Interpretation.
- 3. The Act, is amended in section 27 by
  - (a) substituting for the words "ten thousand dollars" which appear in paragraph (f)(i) of that section the words "twenty-five thousand dollars";
  - (b) substituting for the words "five thousand dollars" which appear in paragraph (f)(ii) of that section the words "twenty-five thousand dollars".Amendment of section 27.
- 4. Section 65 of the Act is amended by
  - (a) substituting for subsections (3) and (4) of that section the following:
    - "(3) Notwithstanding subsections (1) and (2), ~~a person shall not be admitted to bail except by order of the High Court if~~
    - (a) that person is charged with treason, misprison of treason, treason felony, or murder;Amendment of section 65.

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~~of that person is charged with an offence under paragraph 1 or 3 of the Fourth Schedule to this Act.~~

(4) A person who is charged with an offence under paragraph 1 or 3 of the Fourth Schedule to this Act, may be admitted to bail on completion of the preparation of the case by the prosecution, if that person is not to reside in the same household as the complainant or is not to interfere with the complainant."

(b) inserting immediately after subsection (4) of that section the following new subsections:

~~"(5) Where a person is admitted to bail on completion of the preparation of the case by the prosecution, he shall not be required to give bail unless there is a change in circumstances.~~

(6) An inordinate delay in bringing a case to trial may be deemed to be a change in circumstances.

(7) What constitutes an inordinate delay under subsection (6) shall be a question of fact to be decided by a court."

Insertion of new section 72A.

5. The Act is amended by inserting immediately after section 72 the following new section:

"Power of Director of Public Prosecutions in serious cases.

72A. (1) Notwithstanding anything contained in this Part, where the Director of Public Prosecutions is of the opinion, in any case where a person is charged with an indictable offence, that the evidence of the offence charged

- (a) would be sufficient for the person charged to be committed for trial; and
- (b) reveals a case of such seriousness or complexity that it is appropriate that the management of the case should, without delay, be taken over by the High Court; and
- (c) before the Magistrates' Court in whose jurisdiction the offence has been charged

begins to inquire into the case as examining justices the Director of Public Prosecutions gives a notice of his or her intention to transfer the case.

the case shall, subject to this section, be transferred to the High Court without the need for a preliminary inquiry.

(2) Where the Director of Public Prosecutions gives a notice of transfer pursuant to subsection (1),

- (a) he or she shall notify the District Magistrate and the accused in writing, of his or her decision;
- (b) he or she shall submit copies of the statements and all other relevant documents to the District Magistrate; and
- (c) the accused person shall be served with a copy of all statements recorded from potential witnesses.

(3) Upon receipt of the information referred to in subsection (2)(a) and (b), the District Magistrate shall summon the accused person to court and inform him or her of the decision of the Director of Public Prosecutions, and thereafter transfer the case to the High Court for trial, in which case the statements referred to in subsection (2) shall be forwarded to the Registrar's Office in the same manner as if they were depositions.

(4) Where a person whose case is transferred under subsection (3) is in custody and the offence is not an offence mentioned in the Fourth Schedule to this Act, the Magistrates' Court may grant the accused person bail to appear at the assizes to which the person has been committed.

(5) Where a notice of transfer is given after a person to whom the notice relates has

*Magistrate's Code of Procedure (Amendment) Act, 2005 – 33.*

been remanded on bail to appear before the Magistrates' Court on an appointed day, the requirement that he or she shall so appear shall cease on the giving of the notice, unless the contrary is specified in the notice.

(6) Where the requirement that a person to whom the notice of transfer relates shall appear before a Magistrates' Court ceases by virtue of subsection (5), then the accused person shall appear before the High Court at the place specified in the notice of transfer.

(7) If it is specified in the notice the requirement is to continue, when a person to whom the notice relates appears before the Magistrates' Court, the court may, in exercising the powers conferred on it by subsection (3) exercise such powers that will ensure that the accused person appears before the High Court.

(8) The Minister of Legal Affairs may make regulations relating to notices of transfer in order to give effect to provisions of this section.

(9) For the purposes of subsection (1)(b), of this section, before the Director of Public Prosecutions forms the opinion referred to in that subsection, he or she shall take into account the following factors, that is to say,

- (a) the nature of the offence;
- (b) the nature of the evidence;
- (c) the number of witnesses; and
- (d) any other relevant factors."

Amendment of section 95.

6. Section 95 of the Act is amended by replacing the words "one thousand dollars" which appears in that section with the words "twenty-five thousand dollars".

Amendment of section 150.

7. Section 150 of the Act is amended by replacing the words "one thousand dollars" which appears in that section with the words "ten thousand dollars".

Insertion of new Schedule.

8. The Act is amended by inserting immediately after the Third Schedule the following new Schedule.

**"FOURTH SCHEDULE**

(Section 65)

1. Sexual intercourse with a girl under fourteen years of age contrary to section 3(1) of the Criminal Law Amendment Act, Chapter 19.
2. Unlawful sexual intercourse with a woman who is an idiot or imbecile, contrary to section 4(b) of the Criminal Law Amendment Act, Chapter 19.
3. Incest contrary to section 74 of the Offences Against the Person Act, Chapter 56.
4. Non-consensual buggery, contrary to section 56 of the Offences Against the Person Act, Chapter 56.
- ~~5. Wounding with intent contrary to section 37 of the Offences Against the Person Act, Chapter 56.~~
6. Robbery contrary to section 31(1)(a) and (b) of the Larceny Act, Chapter 41, where it is alleged that a firearm, imitation firearm or explosive, as defined in section 2 of the Firearms Act 1967, No. 23 was used by the defendant or another person to subject the victim to force or to put or seek to put the victim in fear of being subjected to force.
7. Possession or use of firearm or ammunition contrary to section 20(1)(a) or 20(1)(b) of the Firearms Act 1967, No. 23.
8. Possession or supply of drugs, where the Director of Public Prosecutions transfer the case to the High Court.
9. Committing another offence while on bail."

MARCELLA A LIBURD  
*Speaker*

Passed by the National Assembly this 1<sup>st</sup> day of December, 2005.

JOSÉ LLOYD  
*Clerk of the National Assembly*