

CRIMINAL PROCEDURE (AMENDMENT) BILL 2004

**COMMITTEE STAGE**

Amendments to be moved by the Secretary for Security

<u>Clause</u>	<u>Amendment Proposed</u>
1	<p>(a) In the heading, by deleting "<b>and commencement</b>".</p> <p>(b) By deleting subclause (2).</p>
2	<p>(a) In the proposed section 67C -</p> <p>(i) in subsection (1), by deleting</p> <p>"Within 6 months after the commencement of this section" and substituting "As soon as practicable after the commencement of this section and in any event within 6 months after such commencement";</p> <p>(ii) by adding -</p> <p>"(1A) If, within 6 months after the commencement of this section, the Secretary for Justice does not make any application in respect of any prescribed prisoner under subsection (1), the prescribed prisoner may also apply to the court for a determination by a judge under this</p>

section.";

(iii) in subsection (2), by adding "or  
(1A)" after "(1)";

(iv) in subsection (3) -

(A) by deleting "Subject to  
subsection (4), where" and  
substituting "Where";

(B) by deleting "the prescribed  
prisoner was under 18 years of  
age" and substituting "he was  
under 18 years of age, then,  
subject to the consent of the  
prescribed prisoner to the  
application of this subsection  
to him";

(v) by deleting subsection (4);

(vi) by deleting subsection (5) and  
substituting -

"(5) In making a determination  
under this section -

(a) subject to paragraph  
(b), the judge may  
take into account any  
material submitted to  
him by the Secretary

for Justice or the  
prescribed prisoner  
that is, in his  
opinion, relevant to  
the determination; and

(b) the judge must not  
take into account the  
previous  
recommendation or the  
previous  
determination."

(b) In the proposed section 67D -

- (i) in the heading, by deleting "**(1)**";
- (ii) by deleting subsection (1);
- (iii) in subsection (2) -
  - (A) by deleting "under section  
67C(1) or subsection (1)" and  
substituting "or a prescribed  
prisoner under section 67C(1) or  
(1A)";
  - (B) in paragraph (b) -
    - (I) by adding the following  
after "signed" -

"-

- (i) in the case of an

application under  
section 67C(1),";

(II) by deleting everything  
after "(Cap. 87)" and  
substituting -

"; or

(ii) in the case of an  
application under  
section 67C(1A), by  
the prescribed  
prisoner.";

(iv) by adding -

"(2A) As soon as practicable  
after the Secretary for Justice has  
made an application in respect of a  
prescribed prisoner under section  
67C(1), the Secretary for Justice  
must serve a copy of the application  
on the prescribed prisoner.";

(v) in subsection (3)(a), by deleting  
everything after ", of the" and  
substituting "proceedings relating to  
the relevant sentence; and";

(vi) by adding -

"(3A) Where an application has

been made in respect of a prescribed prisoner under section 67C(1) or (1A), the Secretary for Justice or the prescribed prisoner may apply to a judge for -

(a) a copy of the record, if available, of the proceedings concerning the prescribed prisoner (whether relating to the relevant offence or the relevant sentence) or any part or parts of the record; and

(b) a copy of any document in the possession of the Registrar,

and if the judge is satisfied that it is necessary and practicable to do so, the judge must direct the Registrar to deliver the copy to both

the Secretary for Justice  
and the prescribed  
prisoner.";

(vii) in subsection (4) -

(A) by adding "or (1A)" after  
"67C(1)";

(B) by deleting "subsection (1)" and  
substituting "subsection (3A)".

(c) In the proposed section 67E(b), by deleting  
"instituted under section 67C in relation to  
the prescribed prisoner" and substituting  
"relating to the prescribed prisoner under  
section 67C".

(d) In the proposed section 67G(1), in the  
definition of "relevant provisions", in  
paragraphs (a) and (b), by adding "originally"  
after "as".

3 In the proposed rule 2(3)(b)(ii), by deleting "in  
relation to him".

4 In the proposed rule 4(1)(ca), by deleting "in  
relation to him".

