



A mock interview in progress. Photo: Singapore Police Force

Major Amendments to the Criminal Procedure Code and Evidence Act

The **Criminal Justice Reform and Evidence (Amendment) Bills** were passed in Parliament on 19 March 2018.

- The Bills can be found at the Parliament website [here](#) and [here](#).
- The press release on the Bills can be found at www.mlaw.gov.sg.

These Bills build on the several changes made in the last few years to the criminal justice system. (See [Annex](#))

The Bills comprise over 50 discrete reforms. The key amendments are summarised below.

Investigative powers

Video Recording of Interviews (VRI)

Statements can be taken from suspects *via* video recording.

VRI will be **implemented in phases**. The first phase will cover –

- Suspects investigated for rape under s 375(1)(a) of the Penal Code;

- Suspects with mental disabilities investigated by selected Police Divisions; and
- Selected non-capital drug cases investigated by CNB.

Later phases will cover **video-recorded statements of vulnerable victims** (e.g. victims of serious sexual offences) to be used as evidence-in-chief in court.

Bail and bonds

The **Court's powers** will be **clarified** and **enhanced**. For e.g.,

- Important conditions will be imposed by default.
- The Court will have the discretion to withhold bail for bailable offences punishable with imprisonment, if there is evidence that the accused person would abscond.
- The Court will
 - Be required to stay execution of grant of bail if the Prosecution is applying for review of bail in relation to a *non-bailable* offence.
 - Have the discretion to stay execution of grant of bail if the Prosecution is applying for review of bail in respect of a *bailable* offence.

Three **new offences** will be created –

- Absconding whilst on bail;
- Leaving jurisdiction without permission, for persons who have surrendered their travel documents; and
- Indemnifying sureties, or, in the case of a surety, agreeing to be indemnified.

Court procedures and evidence

Protection for complainants of sexual and child abuse offences

Measures have been introduced to reduce the stress on vulnerable complainants during the court process. For e.g.,

- **Complainant's identity cannot be published even before the complaint is lodged.**
- **Vulnerable witnesses** may be allowed to **testify behind a physical screen.**
- **Complainants' testimony** will be heard in **closed door hearings.**
- **Leave of Court will be required to ask complainants questions** about their sexual history and behaviour that do not relate to the charge.



Deferred Prosecution Agreements (DPAs)

Under a DPA, the Prosecution **agrees not to prosecute a corporation if the corporation complies with stipulated conditions**, e.g., to implement compliance programmes, and/or to **co-operate in investigations into wrongdoing by individual officers**.

Key features of the DPA framework –

- Only for (i) **corporate offenders with counsel**, and (ii) **scheduled offences**.
- **High Court approval** will be required. The High Court can only approve a DPA if:
 - The DPA is in the **interests of justice**; and
 - The DPA's terms are **fair, reasonable and proportionate**.
- Generally, all DPAs must be **published** after receiving High Court approval.
- DPAs are not available to individuals.

Criminal Case Disclosure (CCD)

The **CCD regime will cover more offences**, including those under the Prevention of Corruption Act and Moneylenders Act.

Psychiatric expert evidence

Psychiatrists will be **appointed to a court-administered panel**. Those in the Panel can be called upon to give expert evidence. The selection criteria will ensure a sufficient pool of psychiatrists. Procedures will be put in place for *ad hoc* appointment of foreign psychiatrists, where applications are made.



Sentencing and other powers of the Court

Community sentences

Community sentences will be **expanded to cover the following** –

- Offenders with a previous imprisonment sentence of 3 months or less, or a previous sentence of Reformatory Training.
- Offenders previously admitted to rehabilitation centres will be eligible if their present charge is not for drug or inhalant abuse.
- Offences punishable with specified minimum fines.

Further amendments will be made to the **Mandatory Treatment Order (“MTO”) regime**:

- Prescribed offences punishable with up to 7 years’ imprisonment will be eligible.

- The maximum duration of MTOs will be increased from 24 to 36 months.
- The court will be able to order the offender to reside at the Institute of Mental Health for a specified duration of in-patient treatment as a condition of an MTO.

The court will be able to impose a suspended imprisonment sentence together with a community sentence. This will encourage compliance, as the suspended imprisonment sentence will automatically take effect if there is a breach of the community sentence.

Victim compensation

The **victim compensation regime will be further strengthened** –

- The Court will be required to give reasons if compensation is not awarded, where it has the power to do so.
- Victims will be able to participate in the compensation order process by making submissions or giving evidence.
- The Court will be empowered to order compensation of the dependents of a person whose death was caused by an offence, for bereavement and funeral expenses.

Re-opening procedure for concluded criminal cases

The procedure for re-opening a concluded criminal case will be set out in statute –

- The test set out by the Court of Appeal will be codified. For a review to take place there must be new material that could not have been adduced earlier, even with reasonable diligence, it must be compelling and probative – and only if the review is necessary to avoid a miscarriage of justice.
- The procedural requirements will also be clarified. Leave of court will be required and only one re-opening application will be permitted. ■

Annex: Snapshot of Major Reforms

- 2010: Criminal Procedure Code repealed and re-enacted
- 2012: Evidence Act amended
- 2012: Penal Code, Misuse of Drugs Act, and Criminal Procedure Code amended to implement changes to death penalty regime
- 2015: Enhanced Criminal Legal Aid Scheme launched