SEXUAL OFFENCES ACT

CHAPTER 8:03

leger contains no othetilary legislation.

Act 7 of 2010 Amended by

2 of 2013

Current Authorised Pages

Pages (inclusive)			Authorised		
			by L.R.(
1		102	***	1/2012	

2 Cap. 8:03

Sexual Offences

Note

on

Subsidiary Legislation

This Chapter contains no subsidiary legislation.

Note on Repeal

This Act repealed ss. 7, 65 to 71 (inclusive), 72, 73 (a), 74, 75, 76, 77, 77A and 83 to 89 (inclusive) of the Criminal Law (Offences) Act Cap. 8:01; s. 31 of the Criminal Law (Procedure) Act, Cap. 10:01; s. 24 of the Summary Jurisdiction (Offences) Act Cap. 8:02; s. 82 of the Evidence Act, Cap. 5:03.

Note on Revision Date

This Act has been revised up to March 1, 2013.

Sexual Offences

Cap. 8:03

3

CHAPTER 8:03

SEXUAL OFFENCES

ARRANGEMENT OF SECTIONS

SECTION

PART I PRELIMINARY

i mirenin hikardan a

- 1. Short title.
- 2. Interpretation.

PART II OFFENCES

al discriber to watch.

- 3. Rape.
- 4. Sexual Assault.
- 5. Consent not inferred.
- 6. Belief in consent.
- 7. Evidential presumptions about consent.
- 8. Conclusive presumptions about consent.

Non Consent Offences: Children and vulnerable adults

9. Non-consent offences.

Child Sex Offences

- 10. Rape of a child under 16 years.
- 11. Sexual activity with a child under 16 years.
- 12. Causing a child under 16 years to watch a sexual act.
- 13. Meeting a child under 16 years following sexual grooming.
- 14. Close in age defence: complainant aged 12 to 14.
- 15. Close in age defence: complainant aged 14 to 16.
- 16. Sexual activity with a child family member.
- 17. Family relationships.
- 18. Sexual activity with a child by abusing a position of trust.

Cap. 8:03

Sexual Offences

SECTION

- 19. Position of trust.
- 20. Obstructing prosecution.
- 21. Arranging or facilitating commission of child sex offence.

Vulnerable adults Sex with adult family member

- 22. Sex with adult family member.
- 23. Obtaining sexual activity with a person with a mental disorder by inducement, threat or deception.
- 24. Causing a person with a mental disorder to watch a sexual act by inducement, threat or deception.
- 25. Care worker engaging in, causing or inciting sexual activity with a person with a mental disorder.
- 26. Care worker causing a person with a mental disorder to watch a sexual act.
- 27. Interpretation of care worker.

Other Offences

- 28. Exposure of genitals.
- 29. Voyeurism.
- 30. Interpretation of voyeurism.
- 31. Intercourse with an animal.

Preparatory offences

- 32. Administering a substance with intent.
- 33. Committing an offence with intent to commit a sexual offence.
- 34. Trespass with intent to commit a sexual offence.
- 35. Offences outside Guyana.

Conspiracy, attempt, incitement, aiding, etc.

36. Punishment of attempt to commit etc. offence against this Act.

Sexual Offences

SECTION

Supplementary and general

- 37. Marital and other relationships.
- 38. Abolition of presumption that male under 14 years incapable of sexual intercourse.
- 39. Charge laid under law in force when offence committed.
- 40. Divestment of authority over child.

PART III INVESTIGATION

- 41. Mandatory record and investigation.
- 42. Confrontation.
- completence views and course

PART IV PROCEDURE AT COURT

Procedure in Paper Committals

- 43. Paper committals.
- 44. Sex offences court.

Exclusion of public from hearing

- 45. Exclusion of public in certain cases.
- 46. Factors to be taken into account.
- 47. Persons not excluded.
- 48. Reasons to be stated.
- 49. Representations before determination.
 - 50. Public and jury excluded.
 - 51. Passing of sentence in public.

Behaviour and reactions of complaint

52. Behaviour and reactions of complainant.

Cap. 8:03

Sexual Offences

SECTION

6

Special measures

- 53. Special measures directions.
- 54. Further provisions about directions.
- 55. Screening witness from accused.
- 56. Evidence by audio visual link.
- 57. Removal of gowns.
- 58. Examination of witness through intermediary.
- 59. Use of anatomically correct dolls.
- 60. Status of evidence given under special measures direction.

Presentation of complainant's views and concerns

61. Opportunity for presentation of complainant's views and concerns.

Anonymity for the complainant

- 62. Anonymity for complainant in press reporting.
- 63. Anonymity for the complainant in Court.

PART V EVIDENCE

Competence of witness and capacity to be sworn

- 64. Competence of witness to give evidence.
- 65. Determining competence of witness.
- 66. Determining whether witness to be sworn.
- 67. Reception of unsworn evidence.
- 68. Penalty for giving false unsworn evidence.
- 69. Corroboration.
- 70. Compellability.

Sexual Offences

Cap. 8:03

7

SECTION

Previous consistent statements

71. Warning to jury.

- 72. Recent complaint.
- 73. Statement of child admissible where no oral testimony.
- 74. Admissibility of child's statement.
- 75. Statements in documents that appear to have been prepared for the purposes of criminal proceedings or investigations.
- 76. No conviction on statement alone.
- 77. Evidence of sexual activity where complainant under 16 years.
- 78. Evidence of sexual activity, reputation, inferences.
- 79. Evidence of sexual activity in general.
- 80. Previous allegations of sexual offences.

PART VI BAIL

- 81. Factors to be taken into account.
- 82. Bail for sexual offences.
- 83. Conditions of bail.
- 84. Complainant to be notified if accused released on bail.

PART VII SENTENCING

85. Orders following conviction.

PART VIII

MEDICAL CARE AND SUPPORT FOR VICTIM

86. Health worker to report child's sexual abuse.

PART IX PREVENTION

- 87. National Task Force for Prevention of Sexual Offences.
- 88. Sexual Violence Unit.
- 89. Data.
- 90. Public awareness.
- 91. Education and training.

STREET OF STREET

8

Sexual Offences

SECTION

PART X MISCELLANEOUS

- 92. Rules of court and regulations.
- 93. Laws to be applied.
- 94. Law inconsistent or in conflict with this Act.
- 95. Repeal and savings.

Cap. 8:03

FIRST SCHEDULE: Paper Committals for Sexual Offences

SECOND SCHEDULE: Part One - Procedure for applying to admit evidence of sexual activity where complainant over 16 years of age.

> Part Two - Procedure for applying to admit evidence of sexual activity where complainant under 16 years of age.

CHAPTER 8:03

SEXUAL OFFENCES

7 of 2010

An Act to reform and consolidate the laws relating to sexual offences and to provide for related matters.

[25TH MAY 2010]

PART I PRELIMINARY

This Act may be cited as the Sexual Offences Act.

Short title.

Interpretation.

2. In this Act -

1.

"accused" includes a defendant;

Sexual Offences

Cap. 8:03

"child" means a person under eighteen years of age;

"consent" means words or overt actions by a person who is competent to give informed consent indicating a freely given agreement to have sexual intercourse or other sexual contact;

"HIV" means the Human Immuno-deficiency Virus;

"image" means a moving or still image and includes an image produced by any means and, where the context permits, a three-dimensional image and references to an image of a person include references to an image of an imaginary person and references to observation (however expressed) are to observation whether direct or by looking at an image;

"learning disability" means a state of arrested or incomplete development of the mind which includes significant impairment of intelligence and social functioning; dependence on alcohol or drugs is not considered to be a disorder or disability of the mind;

"mental disorder" means any disorder or disability of the mind, including learning disability;

> "penetration" means any intrusion, however slight and for however short a time, of any part of a person's body or of any object into the vagina or anus of another person, and any contact, however slight, and for however short a time, between the mouth of one person and the genitals or anus of another, including but not limited to sexual intercourse, cunnilingus, fellatio, anal intercourse and female to female genital contact; and –

> > (i) where the penetration is by the penis, the emission of seminal fluid is not

LR. R. 175823

	LAWS OF GUYANA	
10 Cap. 8:03	Se	xual Offences
and a present control registration where a state		necessary to prove the penetration;
		penetration is a continuing act from entry to withdrawal;
"proceedings		25
in the Human Immuno deficiency Vitnet	(i)	any proceeding relating to bail;
	(ii)	a paper committal;
chured by way manna and others the context with a three-dimensional image and minimums to image of a person include adversers to an image of imaginary pursue and references to an image of waves expressed) are to observation whether waves expressed) are to observation whether	(iii)	where a person has previously been remanded in custody, any subsequent proceeding with respect to the remand of the person in custody for the same offence;
	(iv)	any interlocutory proceeding held in connection with any criminal proceeding;
	(v)	any civil action or proceeding in the High Court;
	• •	a trial or hearing of the charge;
	(vii)	a trial or a hearing of an appeal;
"sexual" inclu		etration, touching or any other activity

if a reasonable person would consider that –
 (i) whatever its circumstances or any person's purpose in relation to it, it is because of its nature sexual: or

(ii)

because of its nature sexual; or because of its nature it may be sexual

and because of its circumstances or the purpose of any person in relation to it (or both) it is sexual;

Sexual Offences

Cap. 8:03

11

"sexual activity" includes touching;

"touching" includes touching -

- with any part of the body, which (i) includes a part surgically constructed gender particular, through (in reassignment surgery);
 - with anything else; (ii)
 - through anything; (iii)

"vagina" includes vulva, meaning the region of the external genital organs of the female and in relation to an animal, references to the vagina or anus include references to any similar part.

PART II OFFENCES

3. (1) A person ("the accused") commits the offence

- (a) the accused
 - engages in sexual penetration (i) with another person ("the complainant"); or
 - causes the complainant to (ii) engage in sexual penetration with a third person;
- the complainant does not consent to the penetration; and

the accused does not reasonably (c)

L.R.O. 1/2012

Rape.

(b) apply to a difference of the difference (b)

of rape if –

12 Cap. 8:03

believe that the complainant consents.

(2) Sections 7 and 8 (relating to presumptions about consent) apply to an offence under this section.

(3) A person who commits the offence of rape is ball sense a discourse that is as build liable, on conviction on indictment, to imprisonment for life.

> Sexual assault. 4. (1) A person ("the accused") commits the offence [2 of 2013] of sexual assault if -

- relation of the sector subsection (1) is liable, on summary conviction, to

(3) A person who commits an offence under

L.R.O. 1/2012

(a) the accused -

- (i) touches another person ("the complainant") in a sexual way;
- (ii)causes the complainant to touch the accused in a sexual way;
- the complainant to (iii) causes touch a third party in a sexual way; or
- (iv) otherwise indecently assaults the complainant within the meaning of any other law;
 - (b) the complainant does not consent to the touching or the act which would constitute sexual assault; and
 - the accused does not reasonably (c) believe that the complainant consents.

(2) Sections 7 and 8 (relating to presumptions as to distance loop and invalidation a consent) apply to an offence under this section.

Sexual Offences

13

imprisonment for five years and on conviction on indictment, to imprisonment for ten years.

Consent not 5. Consent and belief in consent cannot be inferred inferred. by -

- reason of silence or lack of physical (a) resistance on the part of the complainant; or
- reason of sexual arousal including orgasm and ejaculation.

6. (1) Where a defence of belief in consent is raised consent. to the offence of rape or sexual assault, the belief must be objectively reasonable.

(2) Whether a belief is reasonable is to be determined having regard to all the circumstances, including any steps the accused has taken to ascertain whether the add the analysis of the person consents.

(3) It is not a defence to a charge of rape that the sublimation of the second second reasonably believed that the complainant consented and have a set and the manufacture to the sexual activity that forms the subject matter of the ed de la charge, where -

> the belief of the accused arose from (a) self-induced intoxication the or reckless or wilful blindness of the accused; or

> (b) the accused did not take reasonable steps, in the circumstances known to the accused at the time, to ascertain that the complainant was consenting.

Evidential 7. (1) If in any proceedings for an offence under presumptions section 3 or 4 it is proved that -

the completions and the activity of

L.R.O. 1/2012

anis a havible i predite est, with selar vitra (b) . Belief in

	14 Cap. 8:03	Sexual Offences
e on indictment.	about consent.	
		(a) the accused did the sexual activity;

(b)

(c)

the

the complainant is to be taken not to have consented to the sexual activity unless prima facie evidence is adduced to raise an issue as to whether the complainant consented, and the accused is to be taken not to have reasonably believed that the complainant consented unless prima facie evidence is adduced to raise an issue as to whether the accused reasonably believed it.

ed by et all defendent to be balled a control of (2) The circumstances referred to in subsection (1) are that –

(a) any person was, at the time of the sexual activity or immediately before it began, using violence against the complainant or causing the complainant to fear that immediate violence would be used against the complainant;

any of the circumstances specified in

knew

that

those

subsection (2) existed; and

accused

circumstances existed,

(b) any person was, at the time of the sexual activity or immediately before it began, causing the complainant to fear that violence was being used, or that immediate violence would be used, against another person;

the complainant was, and the accused (c)was not, unlawfully detained at the time of the sexual activity;

		LAWS OF GUYANA		
entral Officeration	2	Sexual	Offences	Cap. 8:03
because the completiment below sufficient meterstanding of the nature oc successfy formentals convequences of what is being done, or for large		ca co co W	nused to be omplainant, omplainant's cor hich, having reg	administered to or taken by the without the isent, a substance ard to when it was ken, was capable of
complational is retable to communicate such a choice to the accused;		to		ng the complainant overpowered at the activity;
the complaintee was otherwise receptible of emission to the require activity at the time of the second activity.		at		re than one person sexual activity was the complainant;
aground was expressed by Min words or conduct of a princh ulter time the completiones		ot		was asleep or ious at the time of
abuse of a position of pores or outbomy to the extent that the completional could not rester at the time of this second activity.		di ha se ac	sability, the comp we been able a xual activity to c	plainant's physical plainant would not t the time of the communicate to the the complainant
		(h) (i	time of th unable to re	inant was, at the le sexual activity, efuse because of or related to a mental
The completion's busing classround to employe in the second activity, inquested, by words or constant ability time. Of the second, activity, a task of			knew or cou	and the accused Id reasonably have ed to know this;
egremont to continue to explain in the menul activity. Section (2)(a) and (5), the reference to the loce the terrial activity begins it, in the			subsection, was unable complainant	the complainant to refuse if the lacks the capacity thether to agree to

L.R.O. 1/2012

the sexual activity (whether

15

Sexual Offences

any person had administered to or caused to be taken by the complainants caused is submana which having regard to when it wat administered or taken, was capable at causing or caubling the complainant to be supplied or overboleneed at the time of the small actively.

16

Cap. 8:03

The pressure of mure that one presso at the time of the second with ty was used to infimidate the quaghilitation

 Use complainted was reliep or bilizevite instructions at the time of the exact activities

because of the completions a phenoid disability, the completions would not have been able at the time of the recust activity to contranicate to the excused whether the completions.

 the complained trans, it the trine of the electric activity.
 trine of the electric activity.
 ter a remain releast to a mental disruter, and the manual base or could reasonably trans base expected to transit the

for the purpose of the admention, the complation was unable to return if the complations to the capacity to choose what has to agree to the second articles (whether because the complainant lacks sufficient understanding of the nature or reasonably foreseeable consequences of what is being done, or for any other reason), or the complainant is unable to communicate such a choice to the accused;

 the complainant was otherwise incapable of consenting to the sexual activity at the time of the sexual activity;

 (j) agreement was expressed by the words or conduct of a person other than the complainant;

 (k) abuse of a position of power or authority to the extent that the complainant could not resist at the time of the sexual activity;

(l) the complainant expressed at the time of the sexual activity a lack of agreement to engage in the sexual activity;

(m) the complainant, having consented to engage in the sexual activity, expressed, by words or conduct at the time of the sexual activity, a lack of agreement to continue to engage in the sexual activity.

(3) In subsection (2)(a) and (b), the reference to the time immediately before the sexual activity began is, in the case of an act which is one of a continuous series of sexual

L.R.O. 1/2012

LT001-017.

Sexual Offences

Cap. 8:03

17

activities, a reference to the time immediately before the first sexual activity began.

Conclusive presumption about consent.

8. (1) If in any proceedings for an offence under section 3 or 4 it is proved that the accused did the sexual activity and that any of the circumstances specified in subsection (2) existed, it is to be conclusively presumed that –

- conservative complainment to an accurate proversition with a thur
- (a) the complainant did not consent to the sexual activity; and

(b) the accused did not believe that the complainant consented to the sexual activity.

(2) The circumstances referred to in subsection (1) are that –

 (a) the accused deceived the complainant as to the nature or purpose of the sexual activity;

(b) the accused induced the complainant to consent to the sexual activity by impersonating a person known personally to the complainant.

Non-consent offences: children and vulnerable adults

Non-consent offences.

en the completent to perform a set act hichedres causing the splatners to messionate.

engages for a second ectivity (64)

9. For offences under sections 10 to 26, unless expressly stated in any of the offences, it is not necessary for the prosecution to prove that the complainant did not consent, and belief in consent (whether reasonable or not) is not a defence.

[2) If is indeviat mathematic statistics of the case of the activity file documed fedlered the constitution to be attracts

ERECT OFFICE

18 Cap. 8:03

Sexual Offences

Child Sex Offences

Rape of a child under 16 years. 10. (1) A person ("the accused") commits the offence of rape of a child under sixteen years of age ("the complainant") if the accused –

(a) engages in sexual penetration with the complainant; or

(b) causes the complainant to engage in sexual penetration with a third party.

(2) It is irrelevant whether at the time of the penetration the accused believed the complainant to be sixteen years of age or over.

(3) A person who commits an offence undersubsection (1) is liable on conviction on indictment to imprisonment for life.

Sexual activity **11.** (1) A person ("the accused") commits the offence with a child of sexual activity with a child under sixteen years of age if the under 16 years. accused –

> (a) engages in a sexual activity (not including sexual penetration) with a child who is under sixteen years of age ("the complainant");

> (b) causes or incites the complainant to engage in a sexual activity with a third party; or

(c) causes the complainant to perform a sexual act including causing the complainant to masturbate.

(2) It is irrelevant whether at the time of the activity the accused believed the complainant to be sixteen

L.R.O. 1/2012

hard the

years of age or over.

Sexual Offences

Cap. 8:03

19

Causing a child under 16 years to watch a sexual act.

of -

to imprisonment for ten years. 12. (1) A person ("the accused") commits the offence of causing a child to watch a sexual act if the accused causes a person, who is under sixteen years of age ("the

subsection (1) is liable on summary conviction to imprisonment for five years and on conviction on indictment

(3) A person who commits an offence under

complainant"), to watch the accused sexual or a third person engaging in a sexual activity or to look at an image of a person engaging in a sexual activity.

(2) A person who commits an offence under subsection (1) is liable on summary conviction, to a fine of one million dollars and to imprisonment for five years and on conviction on indictment, to imprisonment for ten years.

(3) A person ("the accused") is not guilty of an all address the second offence under this section, if the accused acts for the purpose

- protecting the complainant from a (a) sexually transmitted infection;
- (b) protecting the physical safety of the complainant;
- (c) preventing the complainant from becoming pregnant; or
- (d) promoting the complainant's and the subscription of the giving of advice

and not for the purpose of obtaining sexual gratification or for the purpose of causing or encouraging the activity constituting the offence or the complainant's participation in it.

20	Cap. 8:03	Sexual Offences	

Meeting a child 13. (1) A person eighteen years of age or over ("the under 16 years accused") commits the offence of meeting a child following following sexual grooming if sexual grooming.

> having met or communicated with (a) another person ("the complainant") on at least two earlier occasions, the accused -

> > (i) meets the complainant; or

(ii) travels with the intention of meeting the complainant in any part of the world;

anything to or in respect of the complainant, during or after the meeting and in any part of the world, which if done will involve the commission by the accused of an offence under this Act; and

(c) the complainant is under sixteen years of age and the accused does not reasonably believe that the complainant is sixteen years of age or over.

(2) In subsection (l)(a) the reference to the accused multiple having met or communicated with the complainant is a reference to the accused having met the complainant in any part of the world or having communicated with the complainant by any means from, to or in any part of the

(3) A person who commits an offence under this section is liable -

world.

L.R.O. 1/2012

as the most put not been adopted of bus put the (b) at the time, the accused intends to do

Serond Offernits	Sexual Offences	Cap. 8:03
5		
within the meaning of extion 19, in not a preson with whom the complitionit is in a relationship of dependency exit is not in a	(a) on summary con one million imprisonment for	viction, to a fine o dollars and to five years;
additional tyrewith the completionant (min is exploitative of the complificant.	(b) on conviction imprisonment for	
defence: under se complaint who is ty age 12 to 14. age, it i activity	4. Where an accused is charge ections 10, 11, 12 or 13 in respe- welve years of age or over but un- s a defence that the complainan- that forms the subject-matter of	ct of a complainan der fourteen years o nt consented to the
accused	-	
 the completions; (3) cathes the completions in migage in result activity with a littled party or 	(a) is less than two y complainant; and	years older than the
 (iii) Conses the completituat in perform securi exits inducing chusing the completionet is measuritates (b) the relation of the recurred to the completion of the relation of within section 17 and the secured 	authority toward within the meani not a person complainant is in dependency and	esition of trust of ls the complainan- ng of section 19, is with whom the n a relationship of d is not in a the complainant that he complainant.
defence: under se complainant age 14 to 16, who is f	5. Where an accused is charge ections 10, 11, 12 or 13 in respe ourteen years of age or over but t is a defence that the complaina	ed with an offence ct of a complainan under sixteen years

accused -

is less than four years older than the (a) complainant; and

activity that forms the subject-matter of the charge if the

ed and the providence of the providence of the (b) is not in a position of trust or authority towards the complainant

L.R.O. 1/2012

21

22 Cap. 8:03

Sexual activity 16. (1) A person ("the accused") commits the offence with a child of sexual activity with a child family member ("the family complainant") if member.

(a) the accused –

(i) engages in sexual activity with the complainant;

within the meaning of section 19, is not a person with whom the complainant is in a relationship of dependency and is not in a relationship with the complainant that is exploitative of the complainant.

- (ii) causes the complainant to engage in sexual activity with a third party; or
- (iii) causes the complainant to perform sexual acts including causing the complainant to masturbate:
- (b) the relation of the accused to the complainant is a family relation within section 17 and the accused knew or could reasonably have been expected to know that the relation of the accused to the complainant was a family relation within that section; and
- (c) the complainant is under eighteen years of age.

(2) Where in proceedings for an offence under this section it is proved that the relation of the accused to the the least here a manufacture complainant was a family relation within section 17, it is to be the second second technology taken that the accused knew or could reasonably have been

Sexual Offences

Cap. 8:03

23

expected to know that the relation of the accused to the complainant was a family relation unless *prima facie* evidence is adduced to raise an issue as to whether the accused knew or could reasonably have been expected to know that it was.

(3) A person who commits an offence under this section is liable –

- (a) where the sexual activity included sexual penetration, on conviction on indictment to imprisonment for life;
 - (b) in any other case
 - (i) on summary conviction, to a fine of one million dollars and to imprisonment for five years;
 - (ii) on conviction on indictment, to imprisonment for fourteen years.

(4) A person ("the accused") does not commit an offence under this section if –

- (a) at the time the complainant is eighteen years of age or over and the accused and the complainant are lawfully married; or
- (b) the relationship of the accused to the complainant is not a family relationship within section 17 and immediately before the relationship first became a relationship within section 17, a sexual relationship existed between them.

(5) Subsection (4) (b) does not apply if at the time referred to in that subsection a sexual relationship between

one of them is the other's property gandparent, brouber, andres property brother, half-sister, word or and a si the eccured (a or but bren the completion of states percent.

the incused and the completizion loss or here. Even in the same housilable or the account is or his tests regularity involved in boring fit sole tests there of expervising or hering fit sole strange of

one of them is of has breat the other's step period (whither through legal marriage ar cohabitation);

- Brit British British State
 British British British British
- one of than to or has been the officity Rephysiches or measures or
- The parent or provide of finite as foster parent of one of them as on the been the other's foster parent;

LING. WHEEL

24 Cap. 8:03

the accused and the complainant would have been unlawful.

(6) In proceedings for an offence under this section it is for the accused to prove the matters mentioned in subsection (4) (a) and (b).

17. (1) For the purposes of section 16, the relation of relationships. one person ("the accused") to another ("the complainant") is a family relation where --

- one of them is the other's parent, (a)grandparent, brother, sister, halfbrother, half-sister, aunt or uncle, or the accused is or has been the complainant's foster parent.
- the accused and the complainant live (b) or have lived in the same household, or the accused is or has been regularly involved in caring for, training, supervising or being in sole charge of the complainant, and
 - one of them is or has been the (i) other's step-parent (whether through legal marriage or cohabitation);
 - (ii) the accused and the complainant are cousins;
 - one of them is or has been the (iiii) other's stepbrother or stepsister, or
 - the parent or present or former (iv) foster parent of one of them is or has been the other's foster parent;

Family

Servid Offician	Sexual Offences	Cap. 8:03	25
to turning beight			
		and the complainant live	
	in the same	e household, and the	
	accused is	regularly involved in	
	caring for, t	raining, supervising or	
puladvutaum	-	sole charge of the	
	complainant,		
	(2) For the purposes of thi	is section –	
of circumstances within metion 10 (1).			
(a) (b) or (c), and he not in a position	(a) "aunt" means	s the sister or half-sister	
	of a person's p	parent, and "uncle" has a	
	corresponding		

(b) "cousin" means the child of an aunt or uncle;

(C) a person is a child's foster parent if so deemed under any law, deed, agreement, arrangement or court order.

dependence of the second second second second second (d) stepbrother" and "stepsister" be been a set of the s

Abuse of position of trust: sexual activity with a child

Sexual activity abusing position of trust.

18. (1) A person ("the accused") commits the offence with a child by of sexual activity with a child under eighteen years of age by abusing a position of trust in relation to that child ("the complainant") if -

- (a) the accused -
 - (i) engages in sexual activity with the complainant;
 - causes the complainant to (ii) engage in sexual activity with a

26 Cap. 8:03

Sexual Offences

(c) the accurred and the compliances for in the same homologic and the accused is regularly involved is being in sole singly of the complainant.
For the purposes of this westion.

of a person's present, and "anele" has a correspondant membris.

(b) "counter orante the civit of an area or oracle;

a perior, is a child's fastin parent if so demaid totales any line, clead, agreening, aryangungat or routh

troffine: mul "dated to the state"

warmen auftrity shift a child

e seriesd') commun the affirms d within eighteen years of age by r by relations in that child ("the

engagen in incol edivity with the omobilitents

callers the completional caller

third party; or

 (iii) causes the complainant to perform sexual acts including causing the complainant to masturbate;

- (b) the accused is in a position of trust in relation to the complainant by virtue of circumstances within section 19 (1)
 (a), (b) or (c), and is not in a position of trust by virtue of other circumstances; and
- (c) the accused knows or could reasonably be expected to know of the circumstances by virtue of which the accused is in a position of trust in relation to the complainant.

(2) Where in proceedings for an offence under this section it is proved that the accused was in a position of trust in relation to the complainant by virtue of circumstances within section 19 (1) (a), (b) or (c), and it is not proved that the accused was in a position of trust by virtue of other circumstances, it is to be taken that the accused knew or could reasonably have been expected to know of the circumstances by virtue of which the accused was in such a position of trust unless *prima facie* evidence is adduced to raise an issue as to whether the accused knew or could reasonably have been expected to know of those circumstances.

(3) A person who commits an offence under this section is liable –

 (a) where the sexual activity included sexual penetration, on conviction on indictment to imprisonment for life;

L.R.O. 1/2012

8-13 1/2012

entil Cilizates	Sexual Offences Cap. 8:03
	(b) in any other case –
	(-,
	(i) on summary conviction, to a fine of
	one million dollars and to
	imprisonment for five years;
(Intropeuti n (I)	(ii) on conviction on indictment, to imprisonment for ten years.
 (ii) an independent clinic; 	
	(4) A person ("the accused") does not commit an
	ence under this section if –
	(a) at the time the complainant is sixteen
	years of age or over and the accused
	and the complainant are lawfully married; or
	married, of
	(b) immediately before the accused
the receiving education at an	entered into a position of trust with
	the complainant, a sexual relationship
	existed between them.
univiser to beenant of	(5) Subsection (4) (b) does not apply if at the time
	erred to in that subsection sexual intercourse between the
	used and the complainant would have been unlawful.
the accused is the guardian of the	(b)
time interest of the second	(6) In proceedings for an offence under this tion it is for the accused to prove the matters mentioned in
	prove the matters mentioned in prove the matters mentioned in
provident of the compared but feithe	
to slive a branched behavior as logal	
Position of	19. (1) For the purposes of sections 14, 15 and 18, the
	sitions of trust in relation to the accused and the
con	nplainant include, where –
the complainent is to vomitioni	.0
	(a) the accused looks after persons,
Him complaintent on an Individual	including the complainant, detained
	in an institution by virtue of a Court
	order or under any law;
	L.R.O. 1/2012

27

	LAWS OF GUYANA	
28 Cap. 8:03	Sexual Offences	
10 on managery convertions, to a live of one million dofters and to impetionment for five general	(b) the accused looks after person including the complainant, who a accommodated and cared for in or of the following institutions –	re
 (ii)	(i) a hospital;	
the period ("the sociast") does not (mentile and	(ii) an independent clinic;	
	home or private hospital; or	re
	(iv) a community home, volunta home, children's home orphanage;	ry or
timeros arts arbitat gisterbornut. (d), duta line la politica a portici termina	(c) the accused looks after persons wh are receiving education at a	no an

(5) Subsection (1) (b) downed apply 1) at the time to in that mibercian second intercourse terms in and the exercise are would have been information.

- (1) Fin the suppose of extrem 14, 15 and 14, 16e
 (2) Fin the subtlet to the except and the
- the moment fixeds when prevent industry, the completions, dominant more instruction by sitter of a Court order or maker my law;

(d) the accused is the guardian of the complainant;

education at that institution;

the

(f)

educational institution (whether in the role of teacher or in another role) and the complainant is receiving, and

accused is not receiving,

- the accused is not appointed to be guardian of the complainant but is the legal or reputed husband or wife of one of the complainant's parents or guardians;
- the complainant is in vocational training and the accused looks after the complainant on an individual basis; or

(g) the accused is a social worker, probation officer, coach, instructor, minister of religion, babysitter, childminder or has a welfare position in relation to the complainant, and has regular unsupervised contact with the complainant. estimated to be a second of the second second (2) For the purposes of subsection (1) – the accused looks after persons under which the property of the property (a) = (a)eighteen years of age if the accused is regularly involved in caring for, training, supervising or being in sole charge of such persons; (b) accused looks after the the complainant on an individual basis if (i) the accused is regularly involved in

Sexual Offences

(ii) in the course of the involvement, the accused regularly has unsupervised contact with the complainant (whether face to face or by any other means).

the complainant; and

caring for, training or supervising

Obstructing 20. (1) In proceedings relating to an offence under prosecution. this Act, a person commits the offence of obstructing the prosecution if that person prevents a child from -

- (a) 🕛 giving a statement to the police;
 - (b) giving evidence in any other way which would be admissible for the paper committal; or

L.R.O. 1/2012

Cap. 8:03

29

Sexual Offences

(c) testifying.

(2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine of one million dollars and to imprisonment for five years.

> Arranging or facilitating the commission of child sex offence.

21. (1) A person ("the accused") commits the offence of arranging or facilitating the commission of a child sex offence if the accused intentionally arranges or facilitates something that the accused intends to do, intends another person to do, or believes that another person will do, in any part of the world, and doing it will involve the commission of an offence under section 10, 11, 12, 13, 16 or 18.

(2) A person ("the accused") does not commit an offence under this section if –

- (a) the accused arranges or facilitates something that the accused believes another person will do, but that the accused does not intend to do or intend another person to do; and
- (b) any offence within subsection (1) would be an offence against a child for whose protection the accused acts.

(3) For the purposes of subsection (2), a person commented acts for the protection of a child if the person acts for the purpose of –

(a) protecting the child from sexually transmitted infection;

- (b) protecting the physical safety of the child;
- (c) preventing the child from becoming pregnant; or

L.R.O. 1/2012

1. E.O. 1202

Sexual Offences	Cap. 8:03

(C) Figure specified in pirrigraph (2):

 (d) promoting the child's emotional wellbeing by the giving of advice, or any educational activity, 31

and not for the purpose of obtaining sexual gratification or for the purpose of causing or encouraging the activity constituting the offence within subsection (1) or the child's participation in it.

(4) A person who commits an offence under this section is liable –

- (a) on summary conviction, to a fine of one million dollars and to imprisonment for five years;
- (b) on conviction on indictment to imprisonment for ten years.

Vulnerable Adults: Sex with adult family member

 Sex with
 22. (1) A person ("the accused") sixteen years of age adult family

 adult family
 or over commits the offence of sex with an adult family

 member.
 member if the accused –

- ("the complainanc), the accused -
-) empiripas in social activity will the complications:
- consists or incline the complateant to copyre it reacted setterly with a thir party: or

- engages in sexual penetration with another person ("the complainant") who is eighteen years of age or over;
- (b) is related to the complainant as parent, grandparent, child, grandchild, brother, sister, half brother, half sister, uncle, aunt, nephew or niece; and
- (c) knew or could reasonably be expected to have known that the accused was related to the complainant in a

Sexual Offences

manner specified in paragraph (b).

(2) Where in proceedings for an offence under this elisities and section it is proved that the accused was related to the complainant in any manner specified in subsection (1) (b), it is to be taken that the accused knew or could reasonably have been expected to know of the relationship between them unless prima facie evidence is adduced to raise an issue as to whether the accused knew or could reasonably have been expected to know of the relationship.

> (3) A person who commits an offence under this section is liable -

- on summary conviction, to a fine of (a) five hundred thousand dollars and to imprisonment for two years;
- (b) on conviction on indictment, to imprisonment for five years.

Obtaining sexual activity by inducement, threat, deception

23. (1) A person ("the accused") commits the offence Obtaining sexual activity of obtaining sexual activity with a person with a mental with a person disorder by inducement, threat or deception if with a mental

- (a) with the agreement of another person ("the complainant"), the accused -
 - (i) engages in sexual activity with the complainant;
 - the (ii) causes incites or complainant to engage in sexual activity with a third party; or

disorder by

inducement, threat or

deception.

	LAWS OF GUYANA	
meil@uncek.	Sexual Offences	Cap. 8:03
tedir Jecques of an industrial edirect or given, a threat male of a strengthen precised by the somestime the purpose of obtaining their	perform se: but not lim	e complainant to xual acts including ited to causing the t to masturbate;
 typermets and (c) the completeent ites a mental discrete and the completeent ites a mental fait the completeent issue a mental 	(b) the accused obtair agreement by inducement offere	is the complainant's means of an d or given, a threat on practised by the
(2) section, if sexu on conviction o	and the accused reasonably be exp the complainant disorder. A person who commits an	offence under this penetration is liable,
(3) of an offence	Unless subsection (2) apple under this section is li a fine of one millior for five years, and on convi	ies, a person guilty able on summary n dollars and to
person with a of causing a person with a	A person ("the accused") of erson with a mental disorder at an image of a person er	er to watch a sexual
act by inducement, threat or deception.	("the complainar causes the compl third person en activity, or to look	at of another person nt"), the accused ainant to watch a gage in a sexual at an image of any a sexual activity;

the complainant agrees to watch or (b)

L.R.O. 1/2012

33

look because of an inducement offered or given, a threat made or a deception practised by the accused for the purpose of obtaining that agreement; and

(C) the complainant has a mental disorder and the accused knows or could reasonably be expected to know that the complainant has a mental disorder.

(2) A person who commits an offence under this had another ball and a section is liable on summary conviction to a fine of one levels in a set the set of million dollars and to imprisonment for five years and on conviction on indictment to imprisonment for ten years.

bits solve wind the eliminate of wind signal (3) A person ("the accused") is not guilty of an offence under this section, if the accused acts for the purpose of -

sexually transmitted infection; based and a protecting the physical safety of the

- protecting the complainant from a (a)
- complainant;
- preventing the complainant from invest a datasy of infancial disorder to water, a policies becoming pregnant; or
 - (d) promoting the complainant's emotional well-being by the giving of advice.

between the subsection of the second s the purpose of causing or encouraging the activity constituting the offence or the complainant's participation in it.

Sexual Offences

Cap. 8:03

35

Care workers for persons with a mental disorder

are worker25. (1) A person ("the accused") who is a care worker,
engaging in,
causing or
inciting sexual
activity with a
person with a
mental
disorder.25. (1) A person ("the accused") who is a care worker,
engaging in, causing or
inciting sexual activity with a person ("the complainant") if -
(a) the accused -
mental
(i) engages in sexual activity with

- (i) engages in sexual activity with the complainant;
- (ii) causes or incites the complainant to engage in sexual activity with a third party; or
- (iii) causes or incites the complainant to perform sexual acts including but not limited to causing the complainant to masturbate;
- (b) the complainant has a mental disorder and the accused knows or could reasonably be expected to know that the complainant has a mental disorder; and
- (c) the accused is involved in the complainant's care in a way that falls within section 27.

(2) Where in proceedings for an offence under this section it is proved that the complainant had a mental disorder, it is to be taken that the accused knew or could reasonably have been expected to know that the complainant had a mental disorder unless *prima facie* evidence is adduced to raise an issue as to whether the accused knew or could reasonably have been expected to know it.

Sexual Offences

(3) A person who commits an offence under this section, if the sexual activity involved sexual penetration, is

(4) Unless subsection (3) applies, a person guilty of an offence under this section is liable –

liable, on conviction on indictment, to imprisonment for life.

- (a) on summary conviction, to a fine of one million dollars and to imprisonment for five years;
- (b) on conviction on indictment, to imprisonment for ten years.

(5) A person ("the accused") does not commit an offence under this section if –

- (a) at the time the complainant is eighteen years of age or over, and the accused and the complainant are lawfully married; or
- (b) immediately before the accused became involved in the complainant's care in a way that falls within section 27, a sexual relationship existed between the accused and the complainant.

(6) Subsection (5) (b) does not apply if at that time sexual intercourse between the accused and the complainant would have been unlawful.

(7) In proceedings for an offence under this section it is for the accused to prove the matters mentioned in subsection (5) (a) and (b).

L.R.O. 1/2012

1 8.0.170

the completions and maintaining with
Cap. 8:03

Care worker 26. (1) A person ("the accused") commits the offence causing a of a care worker causing a person with a mental disorder to person with a watch a sexual act or to look at an image of any person mental engaging in a sexual activity if disorder to watch a sexual

- for the purpose of obtaining sexual (a) gratification, the accused causes another person ("the complainant"), to watch a third person engaging in a sexual activity or to look at an image of any person engaging in a sexual activity;
- (b) the complainant has a mental disorder and the accused knows or could reasonably be expected to know that the complainant has a mental disorder; and
- (c) the accused is involved in the complainant's care in a way that falls within section 27.

(2) Where in proceedings for an offence under this section it is proved that the complainant had a mental disorder, it is to be taken that the accused knew or could reasonably have been expected to know that the complainant had a mental disorder unless prima facie evidence is adduced to raise an issue as to whether the accused knew or could reasonably have been expected to know it.

(3) A person who commits an offence under this section is liable -

- on summary conviction, to a fine of (a) million dollars and to one imprisonment for five years;
- (b) on conviction on indictment, to

L.R.O. 1/2012

act.

Sexual Offences

Sexual Offences

38 Cap. 8:03

imprisonment for ten years.

(4) A person ("the accused") does not commit an offence under this section if –

- (a) at the time the complainant is eighteen years of age or over, and the accused and the complainant are lawfully married;
- (b) immediately before the accused became involved in the complainant's care in a way that falls within section 27, a sexual relationship existed between the accused and the complainant; or
- (c) the accused acts for the purpose of -
 - (i) protecting the complainant from a sexually transmitted infection;
 - (ii) protecting the physical safety of the complainant;
 - ii) preventing the complainant from becoming pregnant; or
 - (iv) promoting the complainant's emotional wellbeing by the giving of advice,

and not for the purpose of obtaining sexual gratification or for the purpose of causing or encouraging the activity constituting the offence or the complainant's participation in it.

L.R.O. 1/2012

for the purpose of obtinuing social gratification. The accred course another present ("the isompletions"), is words a duid period engeging in a isomet activity in to hole at an antiguation any present engriting in a movel whittee

- the completion have mental disorder and the decreted tendow or credit masseably be requested to broke drathe completent free a mental disorder, and
- completion is the second in the second in the second secon
- (3) A pletton who constitute an official version plate
- on supmary conviction, to a the of me million college and to bepression for the years
- on conviction on indictions to

EUR1 .0.X.1 ;

39

(5) Subsection (4) (b) does not apply if at that time sexual intercourse between the accused and the complainant would have been unlawful.

(6) In proceedings for an offence under this section it is for the accused to prove the matters mentioned in subsection (4) (a) and (b).

27. For the purposes of sections 25 and 26, a person ("the accused") is involved in the care of another person ("the complainant") in a way that falls within this section if any of the following paragraphs apply –

- (a) (i) the complainant is accommodated and cared for in a care home, community home, voluntary home or children's home; and
- (i) the accused has functions to perform in the home in the course of employment which have brought the accused or are likely to bring the accused into regular face to face contact with the complainant.
 - (b) if the complainant is a patient for whom services are provided –
 - (i) by a public health body or an independent medical agency; or
 - (ii) in an independent clinic or an independent hospital,

and the accused has functions to

L.R.O. 1/2012

Interpretation of care worker.

(2) A present who commits an offener and e this

40 Cap. 8:03 Sexual Offences

(5) Subscriton (4) (b) does not apply it at that time intercourse between the accused and the complations.

(6) In proceedings for an offenine under 1% it is for the accured to prove the matters transformed it for (1) (1) and for

(C)

27. For the purpose of sections 24 and 36, a proor incused.) Is involved in the form of similar pursue ("the latent") in a very that falls within this section if any of flowing paragraphs apply -

), (i) the nonstatent a memorization (and cared for in a care brance (community frome, victorizity frome of children's brand and perform for the body or agency or in the clinic or hospital in the course of employment which have brought the accused or are likely to bring the accused into regular face to face contact with the complainant;

if the accused is, whether or not in the course of employment, a provider of care, assistance or services to the complainant in connection with the complainant's mental disorder, and as such, has had or is likely to have regular face to face contact with the complainant.

Other offences

Exposure of the genitals. 28. (1) A person ("the accused") commits the offence of exposure of the genitals if the accused –

- (a) intentionally exposes the genitals of the accused; and
- (b) intends that someone will see the genitals of the accused and be caused alarm or distress.

. (2) A person who commits an offence under this section is liable –

- (a) on summary conviction, to a fine of five hundred thousand dollars and to imprisonment for two years;
- (b) on conviction on indictment, to imprisonment for five years.

29. (1) A person ("the accused") commits the offence

L.R.O. 1/2012

by a public leadsh leady or an independent medical

in an independent climit or an

Voyeurism.

10

Sexual Offences Cap. 8:03

of voyeurism if -

- on amounty conviction, to a fing or five imprived theorems dollars and to
- on enviction on indication, a interact, a interact, a
- For the purposes of section 29, a person is a act if the person to in a place which, indifiwould remonship be expected to private
- Die person's gentule, buttock or invatue ate argoned in covared only with underweats
- (Suppose a from a doubd reg
- the proving to define a trease from their to per of a fitted profitmently done to public.
- (2) In section 29, "structure" indudes a first, in or result or other featurement or movable structure;

(2) A proper contrain un offente of interpretion an entriel if she contest, or allows, her vaging of anual to reproted by the pretical of a living multiple and alle interpreor travediese as to whether, to to the pretic of an anistral

(a) for the purpose of obtaining sexual gratification, the accused observes another person ("the complainant") doing a private act without the express consent of the complainant to being observed for sexual gratification;

- (b) the accused installs equipment, or constructs or adapts a structure or part of a structure, with the intention of enabling himself or another person to commit an offence under paragraph (a);
- (c) the accused operates equipment with the intention of enabling another person to observe, for the purpose of obtaining sexual gratification, a third person ("the complainant") doing a private act without the express consent of the complainant to operating equipment with that intention; or
 - the accused records another person ("the complainant") doing a private act with the intention that the accused or a third person will, for the purpose of obtaining sexual gratification, look at an image of the complainant doing the act without the express consent of the complainant to record the act with that intention.

(2) A person who commits an offence under this section is liable –

42	Cap. 8:03	Sexual Offences	

of voyeurism.

(a) on summary conviction, to a fine of five hundred thousand dollars and to imprisonment for two years;

(b) on conviction on indictment, to imprisonment for five years.

Interpretation 30. (1) For the purposes of section 29, a person is doing a private act if the person is in a place which, in the circumstances, would reasonably be expected to provide privacy, and -

- the person's genitals, buttocks (a) or breasts are exposed or covered only with underwear;
- (b) the person is using a lavatory; or
- the person is doing a sexual act (c) that is not of a kind ordinarily done in public.

(2) In section 29, "structure" includes a tent, vehicle or vessel or other temporary or movable structure.

Intercourse with an animal.

31. (1) A person commits the offence of intercourse with an animal if he, with his penis penetrates the vagina or anus of a living animal, and he knows that, or is reckless as to whether, it is the vagina or anus of a living animal that is penetrated.

(2) A person commits an offence of intercourse all the subset by the second second second with an animal if she causes, or allows, her vagina or anus to be penetrated by the penis of a living animal, and she knows that, or is reckless as to whether, it is the penis of an animal she is being penetrated by.

		LAWS OF GUYANA	
inani)((Incord)	Sexual Offences	Cap. 8:03
	section is lia	(3) A person who commits an able –	n offence under this
		(a) on summary con-	viction, to a fine of dollars and to two years;
iestori (2) Applies ton is linkin-			
		Preparatory offences	
Administering a substance with intent.	of adminis administers	(1) A person ("the accused") of tering a substance with into a substance to, or causes a su person ("the complainant") –	ent if the accused
		(a) Improving that the	annulainant dass

- knowing that the complainant does (a) not consent; and
 - (b) with the intention of stupefying or overpowering the complainant, so as to enable any person to engage in a sexual activity that involves the complainant.

(2) A person who commits an offence under this section is liable -

- (a) on summary conviction, to a fine of million dollars and one to imprisonment for five years;
- (b) on conviction on indictment, to imprisonment for ten years.

33. (1) A person commits the offence of committing an offence with intent to commit a sexual offence if the person commits any offence with the intention of committing a

Committing

with intent to commit a

an offence

L.R.O. 1/2012

43

44 Cap. 8:03 Se

Sexual Offences

sexual sexual offence under this Act.

(2) A person who commits an offence under this section is liable on conviction on indictment, where the offence is committed by kidnapping or false imprisonment, to imprisonment for life.

(3) Unless subsection (2) applies, a person guilty of an offence under this section is liable –

Preparation geolatingset

 (a) on summary conviction, to a fine of one million dollars and to imprisonment for five years;

(b) on conviction on indictment, to imprisonment for ten years.

Trespass with 34. (1) A person commits an offence of trespass with intent to intent to commit a sexual offence if the person – sexual offence.

define - Zelle

- overpowering the centrplainant, so a to enable any particle is engage in a meand activity that mealware the exemplianent.
- (a) is a trespasser on any premises;
- (b) intends to commit a sexual offence under this Act on the premises; and
- (c) knows that, or is reckless as to whether, the person is a trespasser.

(2) In this section -

- (a) "premises" includes a structure or part of a structure;
- (b) "structure" includes a tent, vehicle or vessel or other temporary or movable structure.

(3) A person who commits an offence under this section is liable –

L.R.O. 1/2012

.R.C. W2012

Second Officiant	Sexual O	ffences	Cap. 8:03	
bubbals of light the first when something as intuition				
carolinagi	(a) on one	summary convictior million dollar		
	imp	prisonment for five ye	ears;	
Norwitatanding any tring contained in any other	(b) on imp	conviction on ir risonment for ten ye	ndictment, to ars.	

35. (1) Any conduct or act done by a resident or citizen of Guyana in a country or territory outside Guyana shall be deemed to be a sexual offence under the law of Guyana if the conduct or act –

> (a) constituted an offence under the law in force in that country or territory; and

45

(b) would constitute a sexual offence under this Act had it been committed in Guyana.

(2) For the purposes of this section, conduct or an act punishable under the law in force in any country or territory outside Guyana constitutes an offence under that law, however it is described in that law.

(3) The conduct or act referred to in subsection (1) shall be deemed to be an offence under this Act unless the person charged serves on the prosecution a notice, no later than rules of Court shall provide, that the conduct or act alleged does not constitute an offence and his reasons for so stating.

(4) The Court if it thinks fit, may require the prosecution to prove that the conduct or act constitutes an offence under this Act, whether or not the person charged serves such a notice.

(5) In the Court the question whether the conduct

LR.O. DHILL

L.R.O. 1/2012

Offences outside Guyana.

entropic inclusive and an inclusive and the second of any other prevent in

46 Cap. 8:03	Sexual Offences
--------------	-----------------

or act constitutes an offence under this Act shall be decided by the judge alone.

Conspiracy, attempt, incitement, aiding, etc.

Punishment of 36. Notwithstanding anything contained in any other attempt to written law, every person who – offence against

this Act.

- (a) attempts to commit;
- (b) conspires with any other person to commit;
- (c) solicits, incites, aids, abets or counsels or attempts to solicit, incite, aid, abet or counsel any other person to commit; or
- (d) causes or procures, or attempts to cause or procure the commission of,

any offence, whether summary or indictable, against this Act may be charged with, tried, convicted and punished in all respects as if that person were a principal offender.

Supplementary and general

Marital and other relationships.

37. (1) Unless where specifically stated in this Act, a marital or other relationship, previous or existing, is not a defence to a charge of any offence under this Act.

(2) A proposal of marriage, made by the accused or any other party, to the complainant is not a defence to, nor does it have any bearing on, a charge of any offence under this Act.

Abolition of presumption that male

38. The presumption of criminal law that a male under fourteen years of age is incapable of sexual intercourse is abolished.

Sexual Offences

Cap. 8:03

47

under 14 years incapable of sexual intercourse.

Charge laid under law in force when offence committed.

Divestment of authority over child.

of the investigation shall be sound the completini or any parmetalized content of completing **39.** A person who committed an offence before the commencement of this Act and which is an offence under this Act shall be charged, tried and punished under the law in force immediately before the coming into operation of this Act.

40. Where at the trial of any offence under this Act, it is proved to the satisfaction of the Court that an offence under this Act committed against a child has been caused, encouraged or favoured by the child's father, mother, guardian or any other person who has lawful care or charge of the child, the Court may divest that person of all authority over the child and appoint any other suitable person willing to take charge of the child to be the guardian until the child becomes an adult, and the Court shall have power to vary from time to time or rescind or discharge such order.

PART III INVESTIGATION

Mandatory record and investigation.

41. (1) Where an offence under this Act is reported to the police, the police shall, in every case record the report and conduct an investigation.

(2) Within three months of a complaint being made under subsection (1) –

(a) a charge shall be laid in respect of the report; or

number sublis in atmassion.

(b) the file relating to the report and investigation shall be sent to the Director of Public Prosecutions for advice.

L.R.D. 1008

Cap. 8:03

Confrontation.

48

Sexual Offences

(3) Failure to comply with subsection (2) constitutes neglect of duty by the Investigating Rank and the Investigating Rank shall be liable to answer disciplinary charges in accordance with the Police (Discipline) Act.

(4) A person who makes a false complaint to the police may, on the advice of the Director of Public Prosecutions, be charged for the offence of making a false complaint and is liable on summary conviction to a fine of fifty thousand dollars and to imprisonment for three years.

42. (1) Where a report is made of an offence under this Act, at no point during the investigation shall the complainant be required to recount the complaint or any part of it, in the presence of the accused unless the complainant wants to do so.

(2) The complainant shall not be required to view or be in the presence of any person referred to in the complaint as having perpetrated any offence under this Act save for the purposes of an identification parade and then only –

(a) by way of audio visual link;

- (b) by way of a two way mirror; or
- (c) in any other manner sensitive to the complainant's well-being.

PART IV PROCEDURE AT COURT

Procedure in Paper Committals

Paper committals.

43. Where a person is charged with an offence under this Act, there shall be no oral preliminary inquiry and instead a paper committal shall be held in accordance with

L.R.O. 1/2012

c. 17:01

Sexual Offences

49

First Schedule Sex offences couri.

the procedure set out in the First Schedule.

44. The National Task Force for Prevention of Sexual Violence, established under section 87, shall report to the Minister within one year of the date of commencement of this Act on proposals for a special court environment to try cases in relation to offences under this Act.

Exclusion of public from hearing

Exclusion of public in certain cases.

(b)

45. In proceedings where the accused is charged with an offence under this Act, the presiding judge or magistrate shall order the exclusion of members of the public (including the media) from the Court room for the duration of the proceedings, unless the judge or magistrate is of the opinion that such an order is not necessary in the interests of the proper administration of justice to –

- (a) ensure all relevant evidence is heard;
 - ensure that the interests of witnesses under eighteen years of age are safeguarded in all proceedings; or
 - (c) ensure the justice system participants who are involved in the proceedings are protected.

Factors to be taken into account.

46. In making a determination under section 45, the Court shall take into account –

 (a) the nature of sexual offences and the consequences of public disclosure of the details of such offences on the life of the complainant in the particular case and on society's interest in encouraging the reporting of sexual offences in general;

Cap. 8:03 50

Sexual Offences

(b)

the balance between the interests of justice in generally holding criminal proceedings in public, and the the to potential prejudice complainant's personal dignity and right of privacy of doing so in cases of sexual violence;

the right of the complainant and of (c)every individual to personal security and to the full protection and benefit of the law; and

any other factor that the judge or (d) magistrate considers relevant.

> Persons not 47. The accused, complainant, any support person and attorneys-at-law representing either party and any excluded. necessary interpreter shall not be excluded under section 45.

> 48. If an accused is charged with an offence under Reasons to be this Act and the Court orders that the public shall not be excluded from the proceedings, the Court shall state, by reference to the circumstances of the case, the reason for making such an order.

Representations before determination.

stated.

49. The Court shall, at the first Court appearance, and may at any other stage, bring section 45 to the attention of the prosecution and ask the complainant directly if the complainant wishes to give oral or written evidence on the question of whether the public should be excluded from the hearing before the judge or magistrate makes a determination.

Public and jury excluded.

50. The Court shall consider any representations on whether to make a determination under section 45 with the public and jury excluded.

Sexual Offences

Cap. 8:03

51

Passing of sentence in public.

51. Where an order has been made under section 45 to exclude the public from the hearing the passing of sentence shall take place in public.

Behaviour and reaction of complaint

Behaviour and reaction of complainant,

52. Where on the trial of an accused person for an offence under this Act evidence is given or a question is asked of a witness about the behaviour or reaction of the complainant during or after the alleged offence the judge shall inform the jury that complainants of sexual offences display a wide range of responses, and that the absence of behaviour that they might expect a complainant of a sexual offence to display should not be taken as evidence that the offence charged did not take place.

Special Measures

Special measures directions.

53. (1) At any proceedings in relation to an offence under this Act, unless the complainant requests that no such protection be put in place, the Court shall direct that the complainant be protected when giving evidence by one or more of the special measures set out in sections 55 to 59.

(2) A special measures direction shall specify particulars of the provision made by the direction in respect of each special measure which is to apply to the witness's evidence.

(3) In this Part "special measures direction" means a direction under this section.

(4) Nothing in this Part is to be regarded as affecting any power of a Court to make an order or give leave of any description (in the exercise of its inherent jurisdiction or otherwise) in relation to witnesses in proceedings for an offence under this Act.

Sexual Offences Cap. 8:03

provisions about directions.

(3) In this Part of manager distribution, and

52

Further 54. (1) Subject to subsection (2) a special measures direction has binding effect from the time it is made until the proceedings for the purposes of which it is made are either -

- determined (by acquittal, conviction (a) or otherwise); or
- (b) withdrawn or not proceeded with,

a witness about the behaviour or mighton rd the in relation to the accused or (if there is more than one) in relation to each of the accused.

(2) The Court may discharge or vary (or further a special measures direction if it appears to the Court to be in the interests of justice to do so, and may do so either -

on an application made by a party to (a) the proceedings, if there has been a material change of circumstances in the second second second second second second second second since the relevant time; or

of and he put in place the Court shall draw that the (b) of its own motion.

(3) In subsection (2) "the relevant time" means -

concerning the second see all the second s

> if a previous application has been (b)made under that subsection, the time when the application (or last application) was made.

(4) Montang m this Part Is to be regulated at (4) The Court shall state in open Court its reasons for -

(a) giving or varying;

refusing an application for, or for the (b)

	LAWS OF	GUYANA	
Statud Offware	Sexual (Offences	Cap. 8:03
	va	riation or discharge	of; or
	(c) di	scharging,	
		ion and, if it is a ma ered in the record.	igistrates' court,
(c)) Rules of Co	ourt may make provi	ision –
	de he	r uncontested app etermined by the C earing;	
	(b) for ur mo the	r preventing the successful applicati easures direction ere has been a mat rcumstances;	on for a special except where
t to give evidence by means of audio vietal bile (2) Where a questal momenter direction in given exists (1), sectors 73A and 73B of the Evidence	(c) fo: co fo:	r expert evidence nnection with an ap r the variation or di direction;	plication for, or
oply, more that -			
(a) section 75A (5) (b) innit troi nypiy; auto	or	r the manner in wh sensitive informa eated in connection oplication and in page	ation is to be a with such an
 (a) auction (23A (5) (a) and (b) and bot apply, and that it washing to the purposes of application to 		ring disclosed to, or party to the proceedi	

Screening witness from accused. 55. (1) A special measures direction may provide for the witness, while giving testimony or being sworn in Court, to be prevented by means of a screen or other arrangement from seeing the accused.

(2) The screen or other arrangement referred to in subsection (1) shall not prevent the witness from being able to see, and to be seen by –

1151 03.1

L.R.O. 1/2012

53

54	Cap. 8:03	Sexual Offences

the judge and jury or magistrate; (a)

(b) attorneys-at-law the acting in proceedings; and

(c) any interpreter or other person appointed (in pursuance of the direction or otherwise) to assist the witness.

(3) Where two or more attorneys-at-law are acting for a party to the proceedings, subsection (2) (b) is to be regarded as satisfied in relation to those representatives if the witness is able at all material times to see and be seen by at least one of them.

Evidence by audio visual link.

c. 5:03

56. (1) A special measures direction may provide for the witness to give evidence by means of audio visual link facilities.

(2) Where a special measures direction is given under subsection (1), sections 73A and 73B of the Evidence Act shall apply, except that -

- section 73A (3) (b) shall not apply; (a) and
- (b) section 73A (5) (a) and (b) shall not apply, and shall be substituted for the purposes of application to proceedings for an offence under this Act, by the following -

"the person giving evidence to see and hear, and to be seen and heard by, the magistrate or judge, at least one attorney-at-law representing the prosecution and one the defence, and

Sexual Offences

Cap. 8:03

55

where the jury is present, the jury ".

Removal of 57. A special measures direction may provide for the gowns. wearing of gowns to be dispensed with during the giving of the witness's evidence.

Examination of witness through intermediary. 58. (1) A special measures direction may provide for any examination of a child witness (however and wherever conducted) to be conducted through an interpreter or other person approved by the Court for the purposes of this section ("an intermediary").

(2) The function of an intermediary is to communicate –

- (a) to the witness, questions put to the witness; and
- (b) to any person asking such questions, the answers given by the witness in reply to them,

and to explain such questions or answers so far as necessary to enable them to be understood by the witness or person in question.

> (3) Any examination of the witness in pursuance of subsection (1) shall take place in the presence of such persons as Rules of Court or the direction may provide, but in circumstances in which –

(a) the judge or magistrate and legal representatives acting in the proceedings are able to see and hear the examination of the witness and to communicate with the intermediary; and

(b) the jury are able to see and hear the

E.K.O. TREE

Cap. 8:03

Sexual Offences

examination of the witness.

(4) Where two or more legal representatives are acting for a party to the proceedings, subsection (3) (a) is to be regarded as satisfied in relation to those representatives if at all material times it is satisfied in relation to at least one of them.

(5) A person may not act as an intermediary in a particular case except after being sworn or affirmed that the person will faithfully perform the function as intermediary.

(6) Sections 324 to 331 of the Criminal Law (Offences) Act shall apply to intermediaries under this section.

Use of 59. A speci anatomically correct dolls. from a child witnes

Status of evidence given under special measures direction.

c. 8:01

59. A special measures direction may provide for the use of anatomically correct dolls in the taking of evidence from a child witness.

60. Where a statement is made by a witness in criminal proceedings in accordance with a special measures direction, and is not made by the witness in direct oral testimony in Court but forms part of the witness's evidence in those proceedings, the statement shall be treated as if made by the witness in direct oral testimony in Court.

Presentation of complaint's view and concerns

Opportunity for presentation of complainant's views and concerns.

61. (1) The Court shall provide an opportunity to a complainant of an offence under this Act, if the complainant desires it, to present the complainant's views and concerns at appropriate stages of criminal proceedings against the accused, in a manner not prejudicial to the rights of the accused.

(2) For the purposes of subsection (1), appropriate stages of criminal proceedings include the bail hearing and before passing of sentence.

Sexual Offences

Cap. 8:03

57

Anonymity for complainant in press reporting.

62. (1) The publication in any document, or the broadcasting, or transmission in any way, of any information that could identify the complainant or witness to an offence under this Act is prohibited.

(2) This section does not apply in respect of the disclosure of information --

- (a) in the course of the administration of justice; or
- (b) in the provision of medical services or psychological treatment to the complainant, when it is not the purpose of the disclosure to make the information known in the community.

(3) Every person who publishes in any document, the association of the second of the second se could identify the complainant or a witness contrary to sub-shallow reader to espect on subsection (1) commits an offence and is liable on summary conviction to a fine of two million dollars.

estimates a person is charged with an offence subsection (3) in respect of the publication in any document, or the broadcasting, or transmission in any way, of any information that could identify the complainant or a witness, it shall be a defence, subject to subsection (5), to prove that the publication, broadcast, or transmission in which the matter appeared was one in respect of which the complainant had given written consent.

> (5) Written consent is not a defence if it is proved that any person interfered unreasonably with the complainant's peace or comfort with intent to obtain the consent.

L.R.O. 1/2012

Anonymity for the complainant

58 Cap. 8:03

Sexual Offences

Anonymity for the complainant in Court.

y for the complainant's name and address shall not be stated, and the court shall advise the complainant before the complainant gives evidence that the complainant may not do so.

PART V EVIDENCE

Competence of witness and capacity to be sworn

Competence of witness to give evidence.

64. (1) Subject to subsections (2) and (3), at every stage in criminal proceedings under this Act all persons are competent to give evidence.

(2) A person is not competent to give evidence in criminal proceedings under this Act if it appears to the Court that the person is not a person who is able to –

(a) understand questions put to the person as a witness; and

(b) give answers to them which can be understood.

(3) A person charged with an offence under this Act is not competent to give evidence for the prosecution in the proceedings for the offence (whether the person is the only person, or is one of two or more persons, charged with the offence).

> (4) In subsection (3) the reference to a person charged with an offence under this Act does not include a person who is not, or is no longer, liable to be convicted of any offence in the proceedings (whether as a result of pleading guilty or for any other reason).

ver une in respect of which the er construc-

Sexual Offences

Cap. 8:03

59

Determining competence of witness.

65. (1) Any question whether a witness in criminal proceedings under this Act is competent to give evidence in the proceedings shall be determined by the Court in accordance with this section, whether raised -

> by a party to the proceedings; or (a)

(b) by the Court of its own motion.

and domain and the second competent to give evidence in the proceedings.

service and a service of the service qualified medical practitioner.

an international model and the second second second (2) It is for the party calling the witness to satisfy sub-to-modeline the Court that, on a balance of probabilities, the witness is

(3) In determining the question mentioned in subsection (1) the Court shall treat the witness as having the the left of any directions under section 53 which the Court has and a comparison of the second second given, or proposes to give, in relation to the witness.

(4) Any proceedings held for the determination of with the the based based reactions of the question shall take place in the absence of the jury.

trail of the second second second descent to the second (5) Where the Court is in doubt as to whether the is competent, the Court may receive evidence from anyone it deems fit, including a social worker or duly

> (6) Any questioning of the witness (where the Court considers that necessary) shall -

not up address address weat hundland, moved ad 0.00 (a) the conducted by the Court in the is a second second and a social second of presence of the parties and any social worker support person or accompanying the witness; and

> (b) be conducted with the benefit of any special measures the Court deems necessary under sections 53 and 54.

Sexual Offences

Determining whether witness to be sworn.

66. (1) Any question whether a witness in criminal proceedings under this Act may be sworn for the purpose of giving evidence on oath, shall be determined by the Court in accordance with this section, whether raised –

(a) by a party to the proceeding; or

(b) by the Court of its own motion.

(2) The witness may not be swom for that purpose unless the witness has a sufficient appreciation of the solemnity of the occasion and of the particular responsibility to tell the truth which is involved in taking an oath.

(3) The witness shall, if the witness is able to give intelligible testimony, be presumed to have a sufficient appreciation of those matters if no evidence tending to show the contrary is adduced.

(4) If any such evidence is adduced, it is for the party seeking to have the witness sworn to satisfy the Court that on a balance of probabilities, the witness has a sufficient appreciation of the matters mentioned in subsection (2).

the question mentioned in subsection (1) shall take place in the absence of the jury.

(6) Where the Court is in doubt as to whether the witness can be sworn, the Court may receive evidence from anyone it deems fit, including a social worker or duly qualified medical practitioner.

(7) Any questioning of the witness (where the Court considers that necessary) shall –

 (a) be conducted by the Court in the presence of the parties and any social worker or support person

all under [when all o go

second by the contrain the second the parties and my todal at at at support parties reparting the witness and

ordinated with the bandle of any full meanings that Court stams

Struct Officers	Sexual Offences	Cap. 8:03
any that it appears to the Court of Appeal to a		witness; and
	(b) be conducted with	the benefit of any the Court deems ection 53.
to give intelli) For the purposes of this sec gible testimony if the person	
	person as a witnes	tions put to the s; and
beijuty, the periors committe an offence and	(b) give answers to t understood.	hem which can be

67. (1) Subsections (2) and (3) apply to a person who is competent to give evidence in criminal proceedings under this Act, but (by virtue of section 66) is not permitted to be sworn for the purpose of giving evidence on oath in such proceedings.

(2) The evidence in criminal proceedings under this Act of a person to whom this subsection applies shall be given unsworn.

(3) A deposition of unsworn evidence given by a person to whom this subsection applies may be taken for the purposes of criminal proceedings under this Act as if that evidence had been given on oath.

(4) A Court in criminal proceedings under this Act shall accordingly receive in evidence any evidence given extended by the test of the unsworn in pursuance of subsection (2) or (3).

> (5) Where a person ("the witness") who is competent to give evidence in criminal proceedings under this Act gives evidence in such proceedings unsworn, no conviction, verdict or finding in those proceedings shall be taken to be unsafe for the purposes of any statute or other law

Reception of unsworn

evidence.

L.R.O. 1/2012

61

62 Cap. 8:03

Sexual Offences

by reason only that it appears to the Court of Appeal or any other Court that the witness was a person falling within section 66 (and should accordingly have given evidence on oath).

r 68. (1) This section applies where a person gives unsworn evidence in criminal proceedings under section 67.

(2) If a person, as referred to in subsection (1), wilfully gives false evidence in circumstances that, had the evidence been given on oath, the person would have committed perjury, the person commits an offence and is liable –

(a)

where the criminal proceedings related to an indictable offence punishable with imprisonment for life, on indictment to seven years imprisonment;

(b)

where the criminal proceedings related to any case not mentioned in the preceding subsection, on indictment to five years imprisonment.

69. (1) No corroboration of the evidence of the complainant or the sworn or unsworn evidence of a child shall be required for a conviction of an offence under this Act, and the judge shall not direct the jury that it is unsafe to find the accused guilty in the absence of corroboration.

c. 5:03

shall not apply to this Act.

Compellability. 70. The spouse of a person charged with an offence under this Act may be called as a witness for either the prosecution or defence and without the consent of the person charged, and if so called, notwithstanding any other law, is a

Penalty for giving false unsworn evidence.

L.R.O. 1/2012

LT. 0. 277012

Sexual Offences

63

compellable witness.

(b)

Previous consistent statements

Warning to jury.

e complaint was mante as we's an ed will depend on the festivation 71. Where on the trial of an accused person for an offence under this Act evidence is given or a question is asked of a witness which tends to suggest an absence of complaint in respect of the commission of the alleged offence by the person upon whom the offence is alleged to have been committed or to suggest delay by that person in making any such complaint, the judge shall –

- (a) give a warning to the jury to the effect that an absence of complaint or a delay in complaining does not necessarily indicate that the allegation that the offence was committed is false; and
 - inform the jury that there may be good reasons why a victim of a sexual offence may hesitate in making or may refrain from making a complaint about the assault.

Recent 72. (1) In considering whether a recent complaint was complaint. made as soon as could reasonably be expected, the Court shall consider the following factors –

- (a) the nature of sexual abuse and the
 stigma or humiliation often thought
 to go with them, and that they are
 commonly found difficult to report
 (particularly child sexual abuse);
- (b) the relationship of the victim and accused;
- (c) the particular characteristics of the

LLCO, 1/2012

Cap. 8:03

64

Sexual Offences

person in relation to whom the abuse is alleged to have been committed; and

(d) all other relevant circumstances.

(2) Whether the complaint was made as soon as could reasonably be expected will depend on the facts of the particular case, and there is no outer time limit.

73. (1) A statement made by a child complainant in relation to an offence under this Act is admissible as evidence where the child does not give direct oral testimony at the trial.

(2) Sections 74 and 75 shall apply to the admissibility of evidence under subsection (1) of this section.

(3) Where a statement is tendered in evidence under subsection (1), the accused shall not be convicted on the basis of that evidence alone.

Admissibility of child's statement. [2 of 2013]

74. (1) Without limiting any other law, where the Court is satisfied that a child is being prevented from giving evidence and where a statement is made in any written form or manner by a child or by another person on behalf of the child, that statement may be admissible in a trial as evidence of any fact of which direct oral evidence of the child would be admissible.

(2) The Court may admit into evidence the following statement made by a child –

- (a) a statement made to and written by the police;
- (b) a statement made in the form of a statutory declaration;
- (c) a statement written by the child;

L.R.O. 1/2012

the particular characteristican of the

A.E.O. MINER

child admissible where no oral testimony.

Statement of

2010	Sexual Offences	Cap. 8:03

 (d) a statement written by another person on behalf of a child where the child cannot write. 65

(3) The following provisions shall have effect in relation to any written statement of a child admissible in evidence under this section –

- (a) the statement shall state the child's age and that an adult of the child's choice was present with the child when it was made;
- (b) if the statement is written on behalf of a child, it shall be signed or marked if possible by both the child and the person who wrote it and it shall be dated;
 - if the statement is written on behalf of a child who cannot write, the person who wrote the statement shall read it to the child before the child puts the child's mark or thumb print on it and it shall be accompanied by a declaration of the person who wrote it that it was read to the child and that the child appears to understand it and the child agreed to it;
- (d) if the statement is written on behalf of a child who cannot read, the person who wrote the statement shall read it to the child before the child signs it or marks it if possible and it shall be accompanied by a declaration of the person who wrote it that it was read to the child and the child appeared to understand it and the child agreed to

twos in Interest the document of oppositi weather shall give a copy of a stort ten that nevers dire in teles inglicies evidence.

and a because the problem is the second of (n) and the second of the

(6) A child whose wellten epitament is fundered in (a) a trial under this section aball be treated on the bad been examined by the Court.

75. (1) Without Institut, any other written Insy wither serie reterred to in section 36, signame to the Court is in prepared for the purposes of -

) pandlug or contemplated driminal proceediment or

accustinal investigations.

rements shell not be tandored in evolution in a tild I larve of the Court, and the Court abut not gave telev A is of the openion that the assessest capit to be of in the intellet of justice.

LACO MAD

66

Cap. 8:03

Sexual Offences

it;

document, the copy statement given to any other party to the proceedings shall be accompanied by a copy of that document or by such information as may be necessary in order to enable the party to whom it is given to inspect the document or a

(e)

(4) The prosecution shall give a copy of the statement to the accused not less than seven days in advance of the prosecution tendering it into evidence.

copy of it.

if the statement refers to any other

of

the

(5) Any document or object referred to and identified in a written statement tendered in evidence under this section shall be treated as if it had been produced as an exhibit and identified in Court by the witness.

(6) A child whose written statement is tendered in evidence in a trial under this section shall be treated as a person who had been examined by the Court.

75. (1) Without limiting any other written law, where a statement, referred to in section 74, appears to the Court to have been prepared for the purposes of -

- pending or contemplated criminal (a) proceedings; or
- (b) a criminal investigation,

the statement shall not be tendered in evidence in a trial without leave of the Court, and the Court shall not give leave unless it is of the opinion that the statement ought to be admitted in the interest of justice.

Statement in documents that appear to have been prepared for purposes of criminal proceedings or investigations.

statement under subsection (1) wor justice, the Court shall have regard –

- (a) as the barrier of the set of

22. (1) Where the complicional in proceedings for an effective hole with the antice of ego to evolution with the activity for the complement has engaged in any other persons for the activity that formalities in somethics with the activity the formalities in somethics with the activity the formal formalities in a somethic activity the formalities in the formalities in activity the formalities in activity the formalities in activity the formalities in activity the formalities in the formaliti set of the formalities in the formaliti set of the formalitie

(2) In considering whether the admission of a statement under subsection (1) would be in the interest of justice, the Court shall have regard –

to the contents of the statement;

67

- to any risk of unfairness to the accused, or if there is more than one accused to any one of them, if it is likely that the statement can be controverted and the person making the statement does not attend to give oral evidence in the proceedings;
- to any other circumstances that appear to the Court to be relevant.

(3) A written statement mentioned in this section shall be tendered in evidence by the prosecution any time before the prosecution closes its case against the accused –

- (a) if the statement is written by the child, by the prosecution submitting the statement to the Court; or
- (b) if the statement is written on behalf of a child, by calling the person who wrote the statement to put the statement into evidence.

(4) Where a statement is tendered into evidence under subsection (1), it shall be read to the Court, and the accused is entitled to challenge its admissibility before it is admitted into evidence or tendered at paper committal.

LING A DISL

Sexual Offences

subsection (4), the Court shall conduct a hearing in the absence of the jury and public and decide whether the whole or any part of the statement is admissible into evidence.

(5) Where the accused exercises the right under

No conviction on statement alone. **76.** Where a statement is tendered in evidence under sections 74 or 75, the accused shall not be convicted on the basis of that evidence alone.

Evidence of sexual activity

Evidence of sexual activity where complainant under 16 years.

Second Schedule. 77. (1) Where the complainant in proceedings for an offence under this Act is under 16 years of age, no evidence shall be adduced that the complainant has engaged in any sexual activity (with the accused or with any other person) other than the sexual activity that forms the subject matter of the charge unless the Court determines in accordance with the procedure set out in the Second Schedule, that the evidence –

(a) is of criminal sexual activity involving the complainant, and there is evidence of a conviction of a third party for this criminal sexual activity;

> (b) is to be used to show that inappropriate sexual knowledge was not learnt from the accused, or that the complainant had a motive to lie; and

> (c) is of facts sufficiently similar to the facts in issue to have significant relevance

(2) Any evidence referred to in subsection (1) shall only be admitted to the extent that the Court finds that the proposed evidence is material to a fact in issue in the case and

Sexual Offences

Cap. 8:03

69

that its probative value is not outweighed by its inflammatory nature or potential prejudice to the proper administration of justice or the complainant's personal dignity and right of privacy.

78. (1) In proceedings in respect of a sexual offence, evidence as to the sexual activity or reputation of the complainant is not admissible, and the defence shall not be allowed to cross-examine on the matter.

(2) In proceedings in respect of a sexual offence, evidence that the complainant has engaged in sexual activity, whether with the accused or with any other person, is not admissible to support an inference that, by reason of the sexual nature of that activity, the complainant –

(a) is more likely to have consented to the sexual activity that forms the subject-matter of the charge; or

(b) is less worthy of belief.

79. (1) Where the complainant in proceedings for an offence under this Act is sixteen years of age or over, no evidence shall be adduced that the complainant has engaged in sexual activity (with the accused or with any other person) other than the sexual activity that forms the subject-matter of the charge, unless the Court determines, in accordance with the procedure set out in the Second Schedule, that the evidence –

- (a) is of specific instances of sexual activity; and
- (b) (i) tends to rebut evidence that was previously adduced by another party to the proceedings;

in general.

Second Schedule,

or drifte auto the field.

the definition can addume chrone weldence that the previous attrigate way in the initia and

the interview of the evidence to the case of the province of the activity of the technical sectors of tech

LICO A201

L.R.O. 1/2012

Evidence of 79 sexual activity, offence u in general

Evidence of sexual activity, reputation inferences.

a or consensual advicto activity of the complational with the scrutzed where this retworably containprovers with the date of the ellips

Sexual Offences

70 Cap. 8:03

realizamental al vel bedge vince for a selection of a selection (ii) le notice della second selection della selection (iii) le table de la second de la second de la selection (iii)

The (1) In proceedings in respect of a manual offerin middence as to the record activity or reputation of the complanement is not adminishin, and the delence shall use b allowed to cross-menutation on the matter where the accused denies sexual penetration, tends to explain the presence of semen or the source of pregnancy or disease or any injury to the complainant, where it is relevant to a fact in issue; or

 (iii) is of consensual sexual activity of the complainant with the accused where this is reasonably contemporaneous with the date of the alleged offence.

(2) Any evidence referred to in subsection (1) shall only be admitted to the extent that the Court finds that the proposed evidence is material to a fact in issue in the case and that its probative value is not outweighed by its inflammatory nature or potential prejudice to the proper administration of justice or the complainant's personal dignity and right of privacy.

80. (1) The defence shall not introduce evidence directly or ask questions in cross-examination suggesting that previous allegations of sexual offences by the complainant may have been false without the prior permission of the Court.

(2) The Court shall not give such permission

unless –

- (a) the defence can adduce concrete evidence that the previous allegation was in fact false; and
- (b) the relevance of the evidence to the case of the accused is demonstrated to

L.R.O. 1/2012

Previous

allegations of sexual offences.

Sexual Offences

Cap. 8:03

71

etherwiss obstruct the entrum in justice, whether to relation in the recursed or may othe

> Factors to be taken into account.

to be **81.** Where the Court is required to determine whether to grant bail in respect of an offence under this Act the Court shall take into account –

PART VI BAIL

- is disrigat with an effered under fi Act which includes provintian, an but a prior acoust offered duried
- b) there with committing a term offering with a child make wellah | 11 12,13,16,16 er21.

(c) a shail and the second in data into a second in (c) a second in the second se

For the program of sublicition (1), just multi down the second dominantiates that a

detention is not researcy to ensure the attendance of the meaned in Coverin order to be don't with according to inwy

ilistention is not morestary for the protection or aduly of the public including for the protection of any completional of or witness to this offence. (a) the need to secure the health, safety and well-being of the complainant or any witness;

the satisfaction of the Court.

- (b) the need to secure the health, safety and well-being of any child affected by the offence or by the decision on bail;
 - any hardship that may be caused to the accused or the family members of the accused if bail is not granted;
- (d) the record of the accused with regard to the commission of violent acts and whether there is evidence in or on the record of physical or psychological abuse to children;
- (e) whether there are substantial grounds for believing that the accused, if released on bail would –
 - (i) fail to surrender to custody;
 - (ii) commit an offence while on bail; or
 - (iii) interfere with witnesses or

L.R.O. 1/2012

inisi osta

		0.104
72	Cap. 8:03	Sexual Offences

otherwise obstruct the course of justice, whether in relation to the accused or any other person;

(f)any other matters which may be relevant to the case in question.

Bail for sexual 82. (1) Where an accused offences.

justified.

- is charged with an offence under this (a) Act which includes penetration, and has a prior sexual offence conviction, or
- is charged with committing a sexual (b) offence with a child under section 10, 11, 12, 13, 16, 18 or 21,

a second second second second with the Court shall order that the accused be detained in custody in the second deservation of the data been given a reasonable opportunity to do so, shows just cause why the detention of the accused in custody is not

(2) For the purposes of subsection (1), just cause will be shown where the accused demonstrates that -

- detention is not necessary to ensure (a) the attendance of the accused in Court in order to be dealt with according to law;
- detention is not necessary for the (b) protection or safety of the public, including for the protection of any complainant of or witness to the offence;
| | SALIS OF GUIANA |
|---|---|
| | Sexual Offences Cap. 8:03 |
| bit factors present to turner we
mobility a specified present, inducting
the compliance of any relevant shift, bits for any relevant shift, | (c) there is not a substantial likelihood
that the accused will, if released from
custody, commit a criminal offence or
interfere with the administration of
justice; and |
| (c) must the attracted the promiter in
which are situated the promiter in
which a specified person, including
the complements or any relevant child,
mainles, woker or is longueally present. | (d) detention is not necessary to maintain
confidence in the administration of
justice, having regard to all the
circumstances, including – |
| | the apparent strength of the prosecution's case; |
| | (ii) the gravity of the offence; |
| eletter stald;
(e) where the population pointies,
work or attend a place of eduction
work or attend a place of eduction file | (iii) the circumstances surrounding
the commission of the offence,
including whether a weapon was
used; and |
| | (iv) the fact that the accused is liable,
on conviction, for a potentially
lengthy term of imprisonment. |
| the recognisance
conditions as the C | here the accused is charged with an offence
e Court, in granting bail, may also order that
be subject to any of the following further
Court considers appropriate – |
| | a) that the accused abstain from
communicating, directly or indirectly,
with any complainant, witness or
other person identified in the order |
| officiar or other partient or opposing
the order of any change is the
address, employment or compution | except in accordance with the conditions specified in the order as the judge considers necessary; |
| (b) |) that the accused not harass or molest, |
| | L.R.O. 1/2012 |

73

74	Cap. 8:03	Sexual Offences	
entingi i laineteita a nori laineteita i digutte nori laineteinenteentee noritateinenteentee hantere or quanteen i noritateinenteentee	(d) there is not the disc scale and the scale and the scale bin model bin model (d) definition (d) re (d) model in the	molest, a sp the complain (c) that the accu which are which a sp	other person to harass or ecified person, including nant or any relevant child; used not be in a locality in situated the premises in pecified person, including nant or any relevant child, rks or is frequently present
		which are situated the specified princluding relevant che (e) where the work or a with a specomplain that the remain	rcused not be on premises or in a locality in which is he place of education of a berson named in the order, the complainant or any hild; accused continues to reside, attend a place of education ecified person, including the ant or any relevant child, accused do not enter or in the place of residence, hent, or education;
and which in all when but mine when and and in a start of the barrier further when		(f) that the	accused report at such times pecified at a specified police
		dire ala	e accused remain within a al jurisdiction specified in the
minist in the order element (with, the of in the order as crustering)		(h) that th officer the or addres	ne accused notify the police or other person designated in rder of any change in the as, employment or occupation accused;

L.R.O. 1/2012

Linc. James

specified in the order; and

(2) Where a police officer believes on reasonable

(3) Where bail has been granted to a person on a

grounds that a person who has been granted bail subject to one or more of the conditions set out in subsection (1) has failed to comply with a condition of the recognizance, the police officer may apprehend the person without a warrant.

that the accused comply with any other condition specified in the order that the Court considers necessary to ensure the safety and security of any complainant of or witness to the offence or in the interest of the public.

	Smul Official	Sexual Offences	Cap. 8:03
	- erabio		
ging the terminant			cused is the holder ccused deposit it as

(j)

Complainant accused bail.

to be notified if released on

bail.

shall be forfeited and the accused is liable to be re-arrested. 84. If an accused charged with an offence under this Act is released on bail, the prosecutor shall immediately inform the complainant of that fact, and any conditions of

condition imposed under subsection (1) and the person contravenes or fails to comply with the condition, the bail

and soft thought the fit owners allowed out PART VII SENTENCING

Orders 85. Where an accused is convicted of an offence following under this Act, in addition to passing sentence the Court may conviction.

> (a) order that the accused pay civil compensation to the complainant; and

> (b) make one or more of the following

75

		LAWS OF	GUYANA
91.40	76 Cap. 8:03	Sexual (Offences
		orde	ers
		(i)	drug treatment and drug testing order;
		(ii)	rehabilitation order;
		(iii)	protection and safety order; and
		(iv)	where the offence for which the accused has been convicted suggests risk of HIV
			transmission to the
			complainant, a HIV testing order and disclosure of the
			results to the Court and

(v) mental and psychological treatment.

complainant; and

PART VIII

MEDICAL CARE AND SUPPORT FOR COMPLAINT

Health worker to report child's sexual abuse.

86. Where a health worker treats a child and finds evidence that the child has been sexually abused, notwithstanding any law relating to medical confidentiality, the health worker shall report the suspected abuse to the police and keep a record of having done so.

PART IX PREVENTION

National Task Force for Prevention of Sexual Offences.

87. (1) There shall be established an inter-agency task force to be known as the National Task Force for the Prevention of Sexual Violence which shall have the duty to develop and implement a national plan for the prevention of sexual violence.

L.R.O. 1/2012

TOTAL TO ALL PR

Sexual Offences

77

interest to controly of

water to the Scene

op national policy guidalina motivols for victims of anoly we and address mitters relating police, services, prosecutive cal services, notial service when ary test and prison strates

eautor the implementation of Pa et, the National Plan with th attornal Policy Childelines an rotocolst

o-ordinate national volumenter en

locus special attention on the tweller sectal violence in romain anné lociuding mines to police support an metical attention, court proteeu

determine the effectivement of putur avarances exercises and measures to be taken to ensure effectiveness

movide guidance on the downloading of training programmer ponsities model peeton VI;

articles a reasonable time of this require comping into force publish a paper or telegitation of reports to be made sorking medical care and evident calibration and mominical effort op

LR.O. 1720.0

(2) The President shall appoint the members of the Task Force, which shall include the Ministers of Legal Affairs, Home Affairs, Human Services and Social Security, Amerindian Affairs, Education, Health, Local Government, Youth, Sport and Culture, senior public officers with responsibility for law enforcement, health and human and social services and persons from non-governmental organisations.

(3) The Task Force shall carry out the following activities either directly or by one or more of the constituent ministries as appropriate –

(a) develop and publish within a reasonable time of the coming into force of this Act, a National Plan for the Prevention of Sexual Offences, which shall include the necessary steps to eradicate sexual violence in Guyana;

 (b) develop initiatives for prevention of sexual violence;

(c) co-ordinate the implementation of the National Plan;

 (d) commission and co-ordinate the collection, publication and sharing of data among government agencies;

(e) establish policies to enable the Government to work with nongovernmental organisations, faithbased organisations, communitybased organisations and other elements of civil society to prevent sexual violence and provide

	THE OT OT ANTA
	LAWS OF GUYANA
78 Cap. 8:03	Sexual Offences
70	
	assistance to victims of sexual
	viorence,
	(A provide guidance to the Sexual
	Violence Unit:
	(a) develop national policy guidennes
and periors from non-gaingungen	and protocols for victims of sexual
	violence and address matters relating
	to police services, prosecution,
The Task Fitter shall carry out the following	medical services, social service,
	probation service and prison service;
	(h) monitor the implementation of this
	Act, the National Plan and the
	Ivational Foney California
	protocols;
	the structure and
	(i) co-ordinate national education and
	awareness programmes;
	(i) focus special attention on the issues of
	(j) focus special attention on the issues of sexual violence in remote areas
	including access to police support an
	medical attention, court services;
	meanar ann ann ann ann ann ann
	(k) determine the effectiveness of publ
	awareness exercises and measures
	be taken to ensure effectiveness;
	(l) provide guidance on the developme
	of training programmes specific
	under section 91;
governmentel organizations, faith-	(m) within a reasonable time of this A
	coming into force, publish a paper
	integration of reports to be made
	seeking medical care and evider
second violence and party in	gathering and recommend either
	L.R.O. 1/20

Sexual Offences

Cap. 8:03

79

(. (1) The Ministre in or-operation with 005 ental agencies and non-governmental organization pare and dimensions public avaiteness propriete to establish victims and pointful victims of some statementation of the rad, or setum ratios.

 Awareness programming technical to 2 be and the balance of the line of the second to a second to a second technical second technical second technical second second technical second seco establishment of a special centre, or a unit at hospitals or at police stations, and setting out the necessary steps to establish any integrated services;

 (n) in general, ensure acceptable and uniform treatment of all sexual offence matters;

(o) produce an annual report updating data and statistics, reporting on the implementation of the Act, National Plan and National Policy Guidelines, and other prevention activities.

(4) The Task Force shall meet at least once every three months.

Sexual Violence Unit.

Data.

88. (1) The Minister shall establish a Sexual Violence Unit in the Ministry of Human Services and Social Security.

(2) The Sexual Violence Unit, or until it is established, the Director of Social Services shall support the Task Force in carrying out the provisions of section 87 (3).

89. (1) All data collected shall respect the privacy of victims or complainants of sexual offences.

(2) Data shall include, but shall not be limited to, number of reports to the police, number of arrests, prosecutions and successful convictions, gender and age of victims or complainants, geographical locations where offences are alleged to have happened, number of persons seeking medical care, types of injuries received by victims or complainants, relationship of victim or complainant to accused, number of matters withdrawn from Court and number of matters where complainants chose not to proceed further.

Cap. 8:03

Sexual Offences

Public awareness.

80

90. (1) The Minister, in co-operation with other governmental agencies and non-governmental organisations shall prepare and disseminate public awareness programmes designed to educate victims and potential victims of sexual offences and their families of the risk of victimization.

(2) Awareness programmes referred to in subsection (1) shall include but shall not be limited to -

- care information regarding (a) children, for arrangements inappropriate and appropriate behaviour including touching and preventative words, safe and practices;
- (b) sex education;
- (c)

(d)

- (f) information on how to contact relevant law enforcement authorities; (g) information about the rights of in a second second second second second second second victims and potential victims of is a second of the second second second second second second second violence; and
- information regarding exposure to and treatment of HIV and Acquired Immune Deficiency Syndrome and other sexually transmitted diseases;
- the information relating to psychological harm to a victim of sexual offences;
- the measures and services in place to (e) ensure the safety of victims or complainants;

 - information about how to recognise (h)

Sexual Offences

Cap. 8:03

81

sexual abuse and where to seek help.

(3) The Minister in co-operation with other governmental agencies and non-governmental organisations shall prepare and disseminate public awareness programmes designed to discourage behaviour that fosters the abuse of persons that leads to sexual violence.

(4) Awareness programmes referred to in subsection (3) shall include, but shall not be limited to -

- (a)materials that include the impact of sexual violence on individual victims; and
- aggregate information on sexual violence worldwide and domestically as well as warnings of the potential criminal consequences for for engaging in sexual violence or any and the second second

(5) Materials used in the public awareness in a shall include as appropriate pamphlets, brochures, posters, advertisements in mass media, and any other methods appropriate for reaching victims or potential victims of sexual violence.

build by composite and point of the (6) Any material used under this section shall and the privacy of the victim or complainant and the family of each.

Education and

(b) set of the state of the set o

training.

91. (1) The Ministers of Legal Affairs, Home Affairs, Health, Human Services and Social Security shall ensure that training programmes on sexual violence are developed and delivered to police, prosecutors, magistrates and judges, health workers, probation officers, social workers and the prison service, whether directly or by collaboration with other appropriate governmental agencies and non-governmental

82

Sexual Offences

organizations.

Cap. 8:03

(2) The Judicial Service Commission shall ensure that training is provided to magistrates and judges not only on implementation of this Act, but also on existing laws, procedures and obligations relating to sexual offences, for example regulating requests for adjournments, crossexamination of the complainant, and on sexual offences in general, including rape myths.

PART X MISCELLANEOUS

Rules of Court and regulations. **92.** (1) Rules of Court may be made for the purpose of regulating the practice and procedure of the Court in proceedings under this Act.

(2) The Minister may make regulations for carrying out the provisions of this Act and for prescribing anything that needs to be prescribed.

93. Where any provision of any law is in conflict or inconsistent with any provision of this Act, the provision of this Act shall prevail.

Laws to be applied. c. 5:03 c. 10:01

with this Act,

Law inconsistent

94. Except as otherwise provided by this Act, the Evidence Act and the Criminal Law (Procedure) Act shall apply to this Act where necessary with such modifications, adaptations and qualifications that may be needed for the due administration of this Act.

95. Notwithstanding the repeal of any law by this Act, if there are any pending proceedings instituted, the proceedings shall be disposed of or continued under the law as it stood immediately before the commencement of this section.

Repeal and savings.

ndi lata andrew lation and with fifth adhamdallas of a latenamenoplane has enter

L.R.O. 1/2012

-

Sexual Offences

Cap. 8:03

FIRST SCHEDULE

PAPER COMMITTALS FOR SEXUAL OFFENCES

Interpretation. [2 of 2013]

s. 43

1. In this schedule –

"document" includes anything in which information of any description is recorded; and

"paper committal" means a committal proceeding held in accordance with this Schedule.

accused. [2 of 2013]

2. Paper committals are to be held by a magistrate, and sections 45 to 51 relating to the exclusion of the public shall apply.

3. (1) Subject to subparagraph (2), the accused shall the presence of be present at a paper committal.

(2) A magistrate may proceed with a paper and be blacked and because and been committal in the absence of the accused if -

and the magistrate considers that by in the disorderly conduct of

- the accused before the magistrate it is not practicable for the evidence to be tendered in the presence of the accused;
- the state of the second of the second deal (b) the second (b) the the accused cannot be present for reasons of ill-health but is represented by an attorney-at-law and has consented to the evidence being tendered in the absence of the accused; or
 - there is evidence that the accused is (C) deliberately absenting himself from the court.

Paper committal to be

Proceedings in

held by magistrate.

83

Adjournment. [2 of 2013] 4. (1) A magistrate may, before beginning a paper committal or at any time during the proceedings, adjourn the proceedings, and if the magistrate does so may remand the accused.

(2) The Court shall when adjourning fix the time and place at which the proceedings are to be resumed and the time fixed shall be that at which the accused is required to appear or be brought before the Court in pursuance of the remand.

Evidence which is admissible. [2 of 2013]

5. (1) For the purposes of a paper committal credible evidence of the prosecution and the defence shall be allowed.

(2) The prosecutor or a person on behalf of the prosecutor shall file in the registry of the court all evidence for the prosecution for the purposes of a paper committal not later than forty-five days after the date on which the accused first appears in court in relation to the complaint.

(2A) The accused or counsel on behalf of the accused shall file in the registry of the court all evidence for the defence for the purposes of a paper committal not later than forty-five days after the date on which the prosecutor or a person on behalf of the prosecutor filed the statements for the prosecution:

Provided that in respect of all charges which were instituted prior to the commencement of this amendment the accused or counsel on behalf of the accused shall file in the Registry of the court all evidence for the defence for the purposes of the paper committal not later than forty-five days after the date on which the magistrate reopened the paper committal.

(2B) A copy of the evidence filed –

(a) under subparagraph (2) by or on behalf of the prosecutor shall be

L.R.O. 1/2012

DEAL 0.9.1

Bernel Offerens	Sexual Offences	Cap. 8:03	8
effer fut it is true to the best of flar	served on the acc	used;	
pressor's immunologic and belief and that the present made the statement longwing that, if it wine lendered in		(2A) by or on behalf all be served on the	

(3) The following evidence of the prosecution and the defence shall be admissible for the purposes of a paper committal-

prosecutor.

- (a) written statements which satisfy the requirements of paragraph 6;
- (b) the documents or other exhibits (if any) referred to in the written statements;
- (c) depositions pursuant taken to paragraph 2 and which satisfy the requirements of paragraph 7;
- (d) the documents or other exhibits (if any) referred to in the depositions;
- the (e) statements which satisfy requirements of paragraph 8;
- (f) documents which satisfy the requirements of paragraph 9.

6. (1) A written statement by any person is admissible as evidence for the purposes of a paper committal of it satisfies the following requirements -

- the statement is signed or marked by (a) the person who made it;
- (b) the statement contains a declaration by the person who made it to the

Written

statements. [2 of 2013]

L.R.O. 1/2012

5

AMAYUD TO	2001 LA	AWS OF GUYANA
86 Cap. 8:03		Sexual Offences
Nerved on the accessed: 1 Inder paragraph (2A) by of the defence shuft be a proceedion. writing evidence of the pa- bricalitie for the purposes written takename when		 effect that it is true to the best of the person's knowledge and belief and that the person made the statement knowing that, if it were tendered in evidence, the person would be liable to prosecution for wilfully stating in it anything which the person knew to be false or did not believe to be true; (i) before the statement of the prosecution is tendered in evidence, a copy of the statement is given, by or on behalf of the prosecutor, to the
Alse decommon or other any released to In minimums dupositions taken p procession 2 and which procession 2 and which procession		 (ii) before the statement of the defence is tendered in evidence, a copy of the statement is given, by or on behalf of the defence, to the prosecutor;
		 (iii) a statement of either party is to be given to the other party seven days before the commencement of the committal proceedings;
documents which requirements of paragree	(ć	 if the statement is made by a person under 18 years of age, it specifies the age of that person;
 It's the purposes of a pro- log requirement is signed. the statement is signed is the period who mode it's the determent contains. by the period who who had the 	anabiwa na ole (e	· · · ·

Sexual Offences

87

contents;

(f) if the statement refers to any other document as an exhibit, a copy of the statement given to the prosecutor or accused is accompanied by a copy of that document or, if not practicable, with any information as may be necessary to enable the party to whom it was given to inspect that document or a copy of it.

(2) So much of any statement as is admitted in evidence by virtue of this paragraph shall, unless the court commits the accused for trial by virtue of paragraph 12 or the court otherwise directs, be read aloud at the paper committal; and where the court so directs a summary or description shall be given of so much of any statement as is not read aloud.

(3) Any document or other object referred to as an exhibit and identified in a statement admitted in evidence by virtue of this paragraph shall be treated as if it had been produced as an exhibit and identified in court by the maker of the statement.

> 7. (1) A deposition, taken pursuant to paragraph 11, is admissible as evidence for the purposes of a paper committal if it satisfies the following requirements -

- (a) a copy of a deposition is sent to the prosecutor by the clerk of the court not later than seven working days after the deposition is taken;
- (b) a copy of a deposition is served on the accused or his counsel;
- if the deposition refers to any (C) document as an exhibit, the copy of

Depositions. [2 of 2013]

the deposition given to the prosecutor or the accused is accompanied by a copy of that document or, if not practicable, with any information as may be necessary to enable the party to whom it is given to inspect the document or the copy of it.

(2) So much of any deposition as is admitted in evidence by virtue of this paragraph shall, unless the court commits the accused for trial by virtue of paragraph 12 or the court otherwise directs, be read aloud at the paper committal; and where the court so directs a summary or description shall be given of so much of any deposition as is not read aloud in full.

(3) Any document or other object referred to as an exhibit and identified in a deposition admitted in evidence by virtue of this paragraph shall be treated as if it had been produced as an exhibit and identified in court by the person whose evidence is taken as the deposition.

Other statements. [2 of 2013]

c. 5:03

8. (1) Any other statement may be admissible as evidence for the purposes of a paper committal if it satisfies the following requirements -

- (a) before the committal proceedings begin, the prosecutor notifies the magistrate and the accused that the prosecutor believes -
 - (i) that the statement might by virtue of section 91 or section 92 of the Evidence Act be admissible as evidence if the case came to trial; or
 - that the statement would not be (ii) evidence admissible as

L.R.O. 1/2012

88

	LAWS C	OF GUYANA	
Second Officere	Sexua	al Offences	Cap. 8:03
c. 5:03		section 91 or	nan by virtue of r section 92 of the r if the case came to
 (d) by 10 production constitutes proof the any officient proceedings; (e) by the production, institutes any be given in any officients. 	i a j	the prosecutor's b information ava prosecutor at th notification;	ilable to the
(2) In subparagraph (1) seturates to evidence threases to prime just evidence. (3) So much of any document as is admitted in	un shuise (the prosecutor grounds for the beli	
by virtue of this paragraph shull, unline the court the second for trial by virtue of pleasarph 12 or the evolut directs be read aloud at the paper countilful: we fre voters to directs a summary or description	t	the belief at the notification; or	
piram orally of so quich of any document in the foot 6 in full.	in a la sina si	the prosecutor giv statement to the co party at the time of	ourt and the other
(2) is admitted in unless the cou paragraph 12 o the paper cou	So much evidence ort commi or the cou mmittal; lescription	e by virtue of this its the accused for art otherwise directs and where the co n shall be given o	s paragraph shall, trial by virtue of s, be read aloud at purt so directs, a
Ulger	ses of a p	er document is adm paper committal if	

- (a) is admissible as evidence in any criminal proceedings;
- (b) is admissible, or may be used, or is to be admitted or received as evidence in any criminal proceedings;

LECO MARK

L.R.O. 1/2012

89

<u>90 Cap. 8:0</u>	3 Sexual Offences
	(c) may be considered in any proceedings;
	(d) by its production, constitutes proof in any criminal proceedings;
protection of B	(e) by its production, evidence may be given in any criminal proceedings.
inc	 (2) In subparagraph (1) references to evidence lude references to <i>prima facie</i> evidence. (3) So much of any document as is admitted in

evidence by virtue of this paragraph shall, unless the court commits the accused for trial by virtue of paragraph 12 or the court otherwise directs, be read aloud at the paper committal; and where the court so directs, a summary or description shall be given orally of so much of any document as is not read aloud in full.

10. (1) Where a statement, deposition or document is admissible in evidence by virtue of paragraph 6, 7, 8 or 9 it may be proved by the production of -

(a) the statement, deposition or document; or

In the provide the second of t

(2) Subparagraph (1) (b) applies whether or not the statement, deposition or document is still in existence.

(3) It is immaterial for the purposes of this paragraph how many removes there are between a copy and the original.

(4) In this paragraph "copy", in relation to a statement, deposition or document, means anything on which information recorded in the statement, deposition or

L.R.O. 1/2012

Froof by production of copy.

Sexual Offences

Cap. 8:03

91

document has been copied, by whatever means and whether directly or indirectly.

11. (1) Where a magistrate is satisfied that -

- any person is likely to be able to make (a) on behalf of the prosecutor or the written statement accused а containing material evidence, or produce on behalf of the prosecutor or the accused a document or other exhibit likely to be material evidence. for the purposes of proceedings before a magistrate holding a paper committal; and
- (b) it is in the interests of justice to issue a summons under this paragraph to secure the attendance of that person to give evidence or to produce the document or other exhibit,

international sectors in the magistrate shall issue a summons directed to that person a ball and the advector of the second requiring the person to attend before the magistrate at the time and place appointed in the summons to have that person's evidence taken as a deposition or to produce the document or other exhibit.

in the second state of the second state of the second state of the second state is satisfied by evidence on oath and a subparagraph (1), and also the matters mentioned in subparagraph (1), and also that it is probable that a summons would not procure the result required by it, the magistrate may instead of issuing a summons issue a warrant to arrest the person concerned and bring the person before a magistrate at the time and place specified in the warrant.

> (3) A magistrate may issue a warrant to arrest a person and bring the person before the magistrate at a time and place specified in the warrant if -

Summons or

warrant as to depositions.

[2 of 2013]

(a) the person fails to attend before a magistrate in answer to a summons under this paragraph;

(b) the magistrate is satisfied by evidence on oath that the person is likely to be able to make a statement or produce a document or other exhibit as mentioned in subparagraph (1) (a);

(c) it is proved on oath, or in such other manner as may be prescribed, that the person has been duly served with the summons and that a reasonable sum has been paid or laid over to the person for costs and expenses;

(d) it appears to the magistrate that there is no just excuse for the failure.

(4)Where a summons is issued under interest fail of behavior of subparagraph (1) or a warrant is issued under subparagraph add to another summons or specified in in the warrant shall be such as to enable the evidence to be taken as a deposition before a magistrate begins the paper committal.

a land of the second second second evidence is taken as a deposition, the clerk of the magistrate's deed add during the blood and court shall as soon as is reasonably practicable send copies of is a last of the prosecutor and the accused.

> (6) If in pursuance of this paragraph a person produces an exhibit which is a document, the clerk of the magistrate's court shall as soon as is reasonably practicable send copies of the document to the prosecutor and the accused.

Sexual Offences

Cap. 8:03

93

(7) If in pursuance of this paragraph a person produces an exhibit which is not a document, the clerk of the inagistrate's court shall as soon as is reasonably practicable inform the prosecutor and the accused of the fact and of the nature of the exhibit.

Committal for trial. [2 of 2013]

unless-

12. If a magistrate holding a paper committal is satisfied that all the evidence tendered by or on behalf of the prosecutor and the accused is admissible under paragraph 5 (3), the magistrate shall commit the accused for trial for the offence without consideration of the contents of any statements, deposition or other documents, and without consideration of any exhibits which are not documents,

- the second was been as the methanic link and the second or one of the accused does not have an attorney-at-law acting for him in the case; or an attorney-at-law acting for the
 - (b)

Procedure for committal without consideration of the evidence.

vd ivez of di unit (E) 7 hos (E) 8 di

13. (1) Where the accused has an attorney-at-law acting for him in the case and where all the evidence tendered is admissible under paragraph 5 (3), the magistrate shall cause the charge to be read to the accused and shall then ascertain whether the accused wishes to submit that there is insufficient evidence to put the accused on trial for the offence charged.

accused on trial for the offence.

accused or one of the accused, as the case may be, has requested the Court to consider a submission that there is insufficient evidence to put the

(2) If the magistrate is satisfied that the accused or, as the case may be, each of the accused does not wish to make a submission that there is insufficient evidence to put the accused on trial for the offence charged, the magistrate shall, without consideration of the evidence, commit the

accused for trial.

14. (1) Where -Procedure for committal or discharge on consideration of the evidence. [2 of 2013]

(a) the accused or one of the accused does not have an attorney-at-law acting for the accused in the case; or

> (b) the attorney-at-law of the accused or one of the accused, as the case may be, has requested the court to consider a submission that there is insufficient evidence to put the accused on trial by jury for the offence charged,

the magistrate shall consider all the evidence tendered and the submissions made under subparagraph (2) and shall then determine whether, in the magistrate's opinion, there is sufficient evidence to commit the accused for trial or to discharge the accused if the magistrate is of the opinion that there is insufficient evidence.

(2) Where the condition under subparagraph (1) (a) or (b) exists the magistrate shall follow the following

the magistrate may permit the prosecutor to make an opening address to the court, if the prosecutor so wishes, before any evidence is tendered;

> (b) after the prosecutor's opening address, if any, the magistrate shall cause the evidence to be tendered in accordance with paragraphs 6 (2), 7 (2), 8 (2) and 9 (3), that is to say by being read out aloud, except where the court otherwise directs or to the

> > L.R.O. 1/2012

procedure –

Sexual Offences Cap. 8:03 extent that it directs that a summary or description shall be given of so much of any statement as is not read aloud; (c) the court may view any exhibits produced before the court and may take possession of them; after the evidence has been tendered (\mathbf{d}) the court shall hear any submission which the accused may wish to make as to whether there is insufficient evidence to put the accused on trial by jury for any indictable offence under this Act; the court shall permit the prosecutor (e) to make a submission in reply to any

submission made by the accused or where the accused has not made any submission but the magistrate is nevertheless minded not to commit the accused for trial.

Record of reasons. [2 of 2013]

15. The magistrate shall record the reasons in writing for the committal or discharge of the accused person.

Power of Director of Public Prosecutions to give directions. [2 of 2013]

16. (1) In any case where the magistrate discharges an accused person, the Director of Public Prosecutions may require the magistrate to send to the Director of Public Prosecutions the statements, documents, depositions, and exhibits tendered in connection with the case.

(2) After the discharge of the accused person and after the receipt of those statements, documents, depositions, and exhibits, if the Director of Public Prosecutions is of the opinion that a sufficient case is made out to put the accused on trial for any offence under this Act, the Director of Public 95

Sexual Offences

tions in durings that a manufacture includion shall be grown of an of any interactif as in rist stood

court and view any entities

e tite evidence ber hem tendened court shall berr any submittene ch the terraned may with to grain to whether three is meribren bere to pin the struct on teld jury for any indictable referen

ancourt is a provint in a provint miles a minutesian to septy to in a binary solid bit in a provint minimum and bit in a provint and Prosecutions may within six months remit those statements, depositions, and exhibits to the magistrate with directions to reopen the paper committal and to commit the accused for trial, and may give such further directions as the Director of Public Prosecutions may think proper.

(2A) At anytime within six months after the receipt of the documents for the paper committal the Director of Public Prosecutions may, if he thinks fit, remit the case to the magistrate with directions to reopen the inquiry for the purpose of taking evidence or further evidence on a certain point or points to be specified, with any other direction he thinks fit.

(3) Any directions given by the Director of Public Prosecutions under this paragraph shall be in writing signed by the Director of Public Prosecutions, and shall be followed by the magistrate, and the magistrate shall have all necessary power for that purpose.

(4) The Director of Public Prosecution may at any time add to, alter, or revoke any of the directions.

Evidence after committal of accused person. [2 of 2013]

ture the munistrate discharges an or of Public Projectificate may send to the Discourt of Unlife and to the Discourt of Unlife and States and States and

be ente

17. (1) Any person whose statement, deposition, document, or exhibit was not tendered in evidence by the prosecutor or the accused during a paper committal may give evidence at the trial of the accused person.

(2) A party seeking to adduce evidence shall serve the evidence, in the form of a statement, deposition or document which would be admissible under paragraphs 6, 7 8 or 9, on the other party to the proceedings seven days before the day the witness will give evidence at the trial or the contents of the statement, deposition or other document will be entered into evidence.

Sexual Offences

Cap. 8:03

97

ss. 77,79

SECOND SCHEDULE

PARTI

PROCEDURE FOR APPLYING TO ADMIT EVIDENCE OF SEXUAL ACTIVITY WHERE COMPLAINANT OVER 16 YEARS OF AGE

1. In determining whether evidence is admissible under section 79, the Court shall take into account –

Court must consider.

detailed particulars of the antisen that the applying party tooled address tockting the of toold

Factors that

-) the elevence of that is idence in an lister of trial, facturing -
- how the weidence brack to related available to previously additional by monthin party to the proceedings

where the accurrent the data rectual prostaction, have the evolution tands to acplete the provence of second or the source of programs or disease or my inducty to the complicitient, where is triavage to a back in prote-or

to cal -scattebry add, tatli (10) to with the bucchi lintministres

E. K. O., 10kill

- (a) the interests of justice, including the right of the accused to make a full answer and defence;
- (b) society's interest in encouraging the reporting of sexual assault offences;
- (c) whether there is a reasonable prospect that the evidence will assist in arriving at a just determination in the case;
- (d) the need to remove from the factfinding process any discriminatory belief or bias;
- (e) the risk that the evidence may unduly arouse sentiments of prejudice, sympathy or hostility in the jury;
- (f) the potential prejudice to the complainant's personal dignity and right of privacy;
- (g) the right of the complainant and of every individual to personal security and to the full protection and benefit of the law; and

98 Cap. 8:03

Sexual Offences

(h) any other factor that the Court considers relevant.

Application to admit evidence of sexual activity, Application to admit evidence a

> (2) In this Schedule, "hearing" means a *voir dire* as carried out by the Court in the absence of the jury during criminal proceedings.

Form and 3. An application referred to in paragraph 2 must content of be made in writing and set out – application.

- (a) detailed particulars of the evidence that the applying party seeks to adduce, including that of specific instances of sexual activity; and
- (b) the relevance of that evidence to an issue at trial, including
 - (i) how the evidence tends to rebut evidence that was previously adduced by another party to the proceedings
 - (ii) where the accused denies sexual penetration, how the evidence tends to explain the presence of semen or the source of pregnancy or disease or any injury to the complainant, where it is relevant to a fact in issue; or
 - (iii) that the evidence is of consensual sexual activity of

i the minimum test in the second of the second of the second of the second second of the second second second s Second se

- the meet to introve from the field Ending process my electrodistery beint or bits
- Be risk that the rotation may usually about realitments for projectica assesses an austifuly in the lary;
- the potential prejublice to the completentit's personal digitity and rate of privacy.
- the right of the contributions and or every individual to personal wountly and to the full protection and broads of the term and

L.R.O. 1/2012

LECO, MARIA

		LAWS OF G	UYANA	
	Secul Offen	Sexual Of	fences	Cap. 8:03
	n i tanihilgaan ni ta		the complain accused whe reasonably co	
			with the date	
			offence and how	v the evidence is
we protected white the box			relevant to a fac	t in issue.
Applicat	ions to 4 In th			
CTOSS exa	mine. complainant, th		application to cro must also set out	
el, the part of the extilence that				
thetimbe			initial questions d of the complaina	
as referred in its purgraph.)				
start the dominications and			cope of the questi from the initial qu	··· ··
Live part of the seld-poer I				
Jury and public	D. 17kC.		consider the app	
excluded			ng any hearing u	nder paragraph
t to an tillese at triab.	6) with the jury	and the publ	ic excluded.	
Court ma	y hold 6. When	e the Court is	s satisfied -	
a hearing	in the pressed of the	o ale conte l	DALIDITON	
		(a) that	the application rdance with parag	
			- · ·	
broadcies or transmit in any				
			a copy of the appli n to the prosecutor	
terde of an application mide anagraph 2;		and Pros	the Director ecutions; and	of Public
idmice taken, the intentedion and the representations could at lication strater paragraph 2 or ring undie paragraph 6.		addu	the evidence aced is capab issible under sectio	le of being
terminution mode and dite provided under pringraph(8.	the Court shall that hearing,	having allo	oplication for a he owed sufficient contents of the app	time for the
				L.R.O. 1/2012
				LAN. 1/2012

			LAW	S OF GUYANA
	100 Cap	o. 8:03	Se	xual Offences
de allor taint side sould	Complainant not compellable.	7. ⁻ hearing.	The compla	inant is not a compellable witness at the
ngolia, arti, bol e Facandoraria intera parai ni ba	Court's determination and reasons.	8. At the conclusion of the hearing, the Court shares of the evidence, or any part of the evidence is admissible under section 79 and shall provide reasons for that determination, and the reasons must state –		e evidence, or any part of the evidence, ection 79 and shall provide reasons for
a of mights m			(a)	where not all of the evidence is to be admitted, the part of the evidence that is to be admitted;
a higher grunde			(b)	the factors referred to in paragraph I that affected the determination; and
			(c)	where all or any part of the evidence

is to be admitted, the manner in in the second second second second second second second second which that evidence is expected to be relevant to an issue at trial.

> Record of 9. The reasons provided under paragraph 8 shall be entered in the record of the proceedings or, where the proceedings are not recorded, shall be provided in writing.

Publication. 10. (1) For the avoidance of doubt, no person shall publish in any document, or broadcast or transmit in any way, any of the following –

- the contents of an application made (a)under paragraph 2;
- (b) any evidence taken, the information given and the representations made at an application under paragraph 2 or at a hearing under paragraph 6;

reasons.

and the determination made and the and the design of the design of the design of the design of reasons provided under paragraph 8.

Sexual Offences

Cap. 8:03

101

Instruction to

jury.

s. 77

(2) Every person who contravenes subparagraph (1) commits an offence and is liable on summary conviction to a fine of two million dollars.

11. Where evidence is admitted at trial pursuant to a determination made under paragraph 8, the Court shall instruct the jury as to the uses that the jury may and may not make of that evidence.

PART II

PROCEDURE FOR APPLYING TO ADMIT EVIDENCE OF SEXUAL ACTIVITY WHERE COMPLAINANT UNDER 16 YEARS OF AGE

Factors that Court must consider. 1. Paragraphs 1 to 11 of Part 1 shall apply, except that

 (a) under paragraph 1, the Court shall also take into account the interest of society in preventing child sexual abuse, and the overriding duty of the Court to protect child witnesses from inappropriate and traumatic questioning;

 (b) in place of the requirements of paragraph 3, an application referred to in paragraph 2 must set out –

> details of the conviction of a third party for criminal sexual activity involving the complainant;

> (ii) how the evidence is intended to be used to show that inappropriate sexual knowledge was not learnt from the accused, or that the complainant had a motive to lie; and

the similarities between the evidence sought to be adduced and the facts in issue in the case, and why these similarities are sufficient to cause the

(iiii)

evidence to have material relevance to those facts.