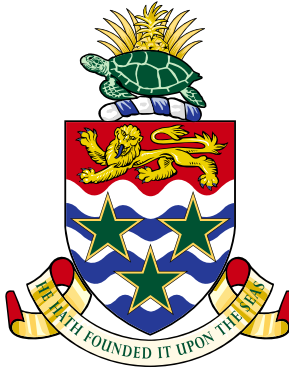


CAYMAN ISLANDS



PENAL CODE (AMENDMENT) BILL, 2022

Supplement No. 3 published with Legislation Gazette No. 44 dated 4th November, 2022.

**A BILL FOR AN ACT TO AMEND THE PENAL CODE (2022 REVISION) IN RELATION
TO OFFENCES AGAINST THE ADMINISTRATION OF LAWFUL AUTHORITY; AND FOR
INCIDENTAL AND CONNECTED PURPOSES**

PUBLISHING DETAILS

Sponsoring Ministry/Portfolio: Portfolio of Legal Affairs (PLA)



Memorandum of OBJECTS AND REASONS

This Bill is a part of the review of the law of contempt carried out by the Law Reform Commission (“the Commission”). It seeks to give effect to the recommendations of the Commission by reforming some contempt offences set out in the Penal Code (2022 Revision) (the “principal Act”).

Clause 1 provides the short title of the legislation.

Clause 2 amends section 3 of the principal Act to insert a definition of the word “summons”.

Clause 3 amends section 107 of the principal Act which deals with conspiracy to defeat justice and interference with witnesses.

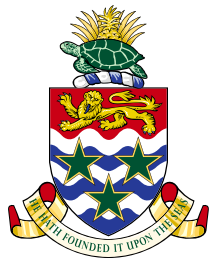
Clause 3 also repeals section 107(1)(d) of the principal Act and reduces the terms of imprisonment in respect of the offences set out in section 107.

Clause 4 repeals and replaces section 111 of the principal Act with a new provision which deals with, among other things, conduct which might otherwise constitute contempt in the face of the court or scandalizing the court.

Clause 5 repeals section 39 of the Summary Jurisdiction Act (2019 Revision) which empowers the court to deal summarily with certain misbehaviour in court.

Clause 6 contains transitional provisions.

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PENAL CODE (AMENDMENT) BILL, 2022

Arrangement of Clauses

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PENAL CODE (AMENDMENT) BILL, 2022

A BILL FOR AN ACT TO AMEND THE PENAL CODE (2022 REVISION) IN RELATION TO OFFENCES AGAINST THE ADMINISTRATION OF LAWFUL AUTHORITY; AND FOR INCIDENTAL AND CONNECTED PURPOSES

ENACTED by the Legislature of the Cayman Islands.

Short title

1. This Act may be cited as the Penal Code (Amendment) Act, 2022.

Amendment of section 3 of the Penal Code (2022 Revision) - definitions

2. The *Penal Code (2022 Revision)*, in this Act referred to as the “principal Act”, is amended in section 3 by inserting after the definition of the word “**publicly**” the following definition —

“**“summons”** means a witness summons, writ of subpoena or any other process issued by a court for the purpose of securing the attendance of a witness in criminal or civil proceedings and **“summoned”** has a corresponding meaning;”.

Amendment of section 107 - conspiracy to defeat justice and interference with witnesses

3. The principal Act is amended in section 107 as follows —
 - (a) in subsection (1) —



- (i) in paragraph (b), by inserting after the words “to do;” the word “or”;
- (ii) in paragraph (c), by deleting the words “or criminal; or” and substituting the words “or criminal;”;
- (iii) by repealing paragraph (d); and
- (iv) by deleting the word “seven” and substituting the word “five”; and
- (b) in subsection (2), by deleting the word “five” and substituting the word “two”.

Repeal and substitution of section 111 - offences relating to judicial proceedings

4. The principal Act is amended by repealing section 111 and substituting the following section —

“Offences relating to judicial proceedings

111. (1) A person who, in any judicial proceedings —

- (a) wilfully insults or shows disrespect to —
 - (i) the court;
 - (ii) any judge or magistrate when exercising the judge’s or magistrate’s functions with respect to such judicial proceedings; or
 - (iii) any attorney appearing in, any party to, or any witness giving or intending to give evidence in, such judicial proceeding;
- (b) wilfully —
 - (i) interrupts any such judicial proceedings;
 - (ii) causes a disturbance in the course of any such judicial proceedings; or
 - (iii) otherwise misconducts himself or herself in the course of any such judicial proceedings;
- (c) having been duly summoned to give evidence —
 - (i) fails to attend or to attend after adjournment of the court after being ordered to attend the adjourned hearing;
 - (ii) refuses to be sworn or make an affirmation;
 - (iii) after being sworn or affirmed, refuses without lawful excuse to answer a question or produce a document;
 - (iv) after giving evidence, departs without obtaining the permission of the court or remains in court after being ordered to leave; or



- (d) attempts wrongfully to interfere with or influence a witness, either before or after he or she has given evidence, in connection with such evidence,
commits an offence and is liable on conviction to a term of imprisonment of four years.
- (2) Subject to subsection (3), where it appears to the court that an offence against subsection (1)(a), (b) or (c) has been committed in view of the court, the court may cause the alleged offender to be remanded in custody until the rising of the court on the same day and then, or at any earlier time, take cognizance of the offence; and, if satisfied that the alleged offender has committed the offence, sentence the offender to a fine of five hundred dollars or, in default of payment, to imprisonment for six months.
- (3) The court shall not make a determination of guilt pursuant to subsection (2) without first satisfying itself of the matters specified in section 12(1) of the *Contempt of Court Act, 2022*.
- (4) This section is in addition to and not in derogation of the power of the Grand Court to punish for contempt of court.”.

Repeal of section 39 of the Summary Jurisdiction Act (2019 Revision) - power to deal with misbehaviour in court, etc.

5. Section 39 of the *Summary Jurisdiction Act (2019 Revision)* is repealed.

6. All proceedings pending at the date of the commencement of this *Penal Code (Amendment) Act, 2022* in respect of offences committed or alleged to have been committed against sections 107 and 111 of the *Penal Code (2022 Revision)* and section 39 of the *Summary Jurisdiction Act (2019 Revision)* shall be continued and dealt with as if this the *Penal Code (Amendment) Act, 2022* had not come into force.

Passed by the Parliament the day of , 2022.

Clerk of the Parliament