

Recent Amendment to the Courts Act

The Piracy and Maritime Violence Bill which, passed by Parliament in December last, will by virtue of section 11(1) amend the Courts Act which shall be as follows:

(1) The Courts Act is amended –

(a) by repealing section 134;

(b) in section 161B, by adding, after the words “sexual case”, the words “or any witness in relation to an offence under the Piracy and Maritime Violence Act 2011”;

(c) in sections 181B, 181C and 181E, by adding the words “in civil proceedings”;

(d) by inserting, after section 188B, the following new section –

188C. Admissibility of out of Court statement in piracy cases where maker is unavailable

(1) In any criminal proceedings under the Piracy and Maritime Violence Act 2011, a statement made out of Court shall be admissible as evidence, with leave of the Court, of any matter stated when –

(a) oral evidence given in the proceedings by the person who made the statement would be admissible as evidence of that matter;

(b) the person who made the statement is identified to the Court’s satisfaction; and

(c) one of the 5 conditions specified in subsection(2) is satisfied.

(2) The conditions referred to in subsection (1)(c) are that the person who made the statement –

(a) is dead;

(b) is unfit to be a witness because of his bodily or mental condition;

(c) is outside Mauritius and it is not reasonably practicable to secure his attendance;

(d) cannot be found although such steps as is reasonably practicable to take to find him have been undertaken; or

(e) through fear, does not give or does not continue to give oral evidence in the proceedings, either at all or in connection with the subject matter of the statement.

(3) Where a statement is admitted in evidence under subsection (1) any evidence which, if that person had been called as a witness, could have been admissible for the purpose of impeaching or supporting his credibility, shall be admissible for that purpose.

(4) In assessing the weight, if any, to be attached to a statement admitted in evidence under subsection (1), the Court shall have regard to all the circumstances from which any inference can reasonably be drawn as to its accuracy or otherwise.

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