

**THE PRELIMINARY INQUIRY
(MISCELLANEOUS PROVISIONS) ACT 2011**

Act No. 18 of 2011

I assent

6 July 2011

M. A. OSHAN BELLEPEAU
Acting President of the Republic

ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Courts Act amended
3. Criminal Procedure Act amended
4. District and Intermediate Courts (Criminal Jurisdiction) Act amended
5. Transitional provisions

An Act

**To amend relevant enactments to provide that the
Director of Public Prosecutions may, at his discretion, decide
whether or not to require the holding of a preliminary inquiry
before a trial before a Judge and a jury**

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the Preliminary Inquiry (Miscellaneous Provisions) Act 2011.

2. Courts Act amended

The Courts Act is amended –

- (a) in section 115, by deleting the words “, with the consent of the Director of Public Prosecutions, proceed to hold a preliminary inquiry in accordance with the District and Intermediate Courts (Criminal Jurisdiction) Act” and replacing them by the words “refer the matter to the Director of Public Prosecutions who, in accordance with section 3(1A) of the Criminal Procedure Act, may, at his discretion, decide whether or not a preliminary inquiry shall be held before the person is made to stand trial before the appropriate Court”;
- (b) in section 134(3), by deleting the words “shall, in accordance with Part II of the District and Intermediate Courts (Criminal Jurisdiction) Act, hold a preliminary inquiry, and, if the evidence so warrants, commit him to stand trial” and replacing them by the words “shall refer the matter to the Director of Public Prosecutions who may, at his discretion, decide whether or not a preliminary inquiry shall be held before the person is made to stand trial before the said District Court”.

3. Criminal Procedure Act amended

The Criminal Procedure Act is amended –

- (a) in section 3, by inserting, after subsection (1), the following new subsection –
 - (1A) Where a person is charged with an offence referred to in section 116 of the Courts Act, the Director of Public Prosecutions may, at his discretion but subject to any other enactment, decide whether or not a preliminary inquiry shall be held before the person is made to stand trial and prosecute the case –
 - (a) before a Judge and a jury, without holding a preliminary inquiry;
 - (b) before a Judge without a jury;

- (c) before the Intermediate Court; or
 - (d) before the appropriate District Court for the Magistrate to inquire into the charge and commit the person for trial.
- (b) in section 9, by deleting the word “The” and replacing it by the words “Where a preliminary inquiry has been held pursuant to Part II of the District and Intermediate Courts (Criminal Jurisdiction) Act, the”;
- (c) in section 64(1), by deleting the word “Any” and replacing it by the words “Where a preliminary inquiry has been held pursuant to Part II of the District and Intermediate Courts (Criminal Jurisdiction) Act, any” ;
- (d) by repealing section 65 and replacing it by the following section –

65. Prosecution evidence available

- (1) Every person charged with an offence –
- (a) before a Judge and a jury where the trial has not been preceded by a preliminary inquiry;
 - (b) before a Judge without a jury; or
 - (c) before the Intermediate Court,

shall be entitled to have, on demand, copies of the statements recorded from the witnesses for the prosecution, of any documentary evidence to be produced at the trial and of any unused material.

(2) Where the trial has been preceded by a preliminary inquiry, the person charged shall, in addition to the statements, documentary evidence and unused material referred to in subsection (1), be entitled to copies of the depositions taken against him by the committing Magistrate.

4. District and Intermediate Courts (Criminal Jurisdiction) Act amended

The District and Intermediate Courts (Criminal Jurisdiction) Act is amended, in section 44 –

- (a) by inserting, after the word “Where”, the words “, in accordance with section 3(1A)(d) of the Criminal Procedure Act,”;
- (b) by deleting the words “Magistrate may” and replacing them by the words “Magistrate shall”.

5. Transitional provisions

(1) This Act shall apply in respect of an offence committed before the commencement of this Act.

(2) Where a Magistrate has, before the commencement of this Act, started to hear the depositions of any witnesses in a preliminary inquiry, the Director of Public Prosecutions may require him not to proceed further with the inquiry.

Passed by the National Assembly on the fourteenth day of June two thousand and eleven.

Ram Ranjit Dowlutta
Clerk of the National Assembly