

The Interim Report of the
Special Select Committee (Senate)
on the
**Miscellaneous Provisions (Trial By
Judge Alone) Bill, 2023**



**Fourth Session (2023/2024),
Twelfth Parliament**



FOURTH SESSION OF THE 12TH PARLIAMENT (2023/2024)

INTERIM REPORT

OF

THE SPECIAL SELECT COMMITTEE OF THE SENATE

APPOINTED TO CONSIDER AND REPORT ON

A BILL ENTITLED, “AN ACT TO AMEND THE JURY ACT, CHAP. 6:53 AND THE
CRIMINAL PROCEDURE ACT, CHAP. 12:02 AND FOR RELATED MATTERS”

MP PARL: No.

Senate Paper No. of 2024

[Ordered to be printed by the Senate]

Date Laid in the Senate: dd/mm/year

Committee Mandate

Pursuant to a resolution of the Senate on Tuesday January 23, 2024, a Special Select Committee was established to consider and report by March 31, 2024 on the Miscellaneous Provisions (Trial By Judge Alone) Bill, 2023.

Committee Membership

Mr. Reginald Armour, SC - Chairman
Mr. Randall Mitchell
Ms. Allyson West
Mrs. Renuka Sagrarsingh-Sooklal
Mrs. Jayanti Lutchmedial-Ramdial
Mr. Anthony Vieira, SC
Prof. Gerard Hutchinson

Secretariat Support

Mr. Julien Ogilvie, Deputy Clerk	Secretary
Ms. Sherlana Ramdeen, Assistant Clerk	Assistant Secretary
Ms. Cherylee Legair, Parliamentary Research Specialist	Researcher

Contact

The Secretary
Special Select Committee (Senate) on the Miscellaneous Provisions (Trial by Judge Alone), 2023
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Date Laid in Senate: dd/04/2024

Senate Paper No.:

PARL No.:

CHAIRMANSHIP

1. Pursuant to a resolution of the Senate on Tuesday January 23, 2024, Mr. Reginald Armour, SC was appointed to be Chairman of the Committee, in accordance with **Standing Order 85 (2)**.

MEETINGS

2. Since its appointment, your Committee has held (2) meetings on the following dates:
 - Tuesday March 19, 2024; and
 - Tuesday March 26, 2024.
3. The Minutes of the Meetings are attached at **Appendix I**.

WORK TO DATE

FIRST MEETING

4. At its **First Meeting** held on Tuesday March 19, 2024, your Committee acknowledged that it was mandated to adopt the work of the Special Select Committee appointed in the Third Session (2022/2023) and report to the Senate by March 31, 2024.
5. It was noted that in addition to the assistance to be rendered by the Senate Secretariat, the Committee will also be supported by the Chief Parliamentary Counsel and the Criminal Justice Unit of the Office of the Attorney General and Ministry of Legal Affairs (AGLA).
6. The Committee noted that the previously appointed Committee received submissions from several stakeholders but was yet to receive a written submission from the **Director of Public Prosecutions (DPP)** and directed the Secretary to request another update from the DPP.
7. The Committee commenced its consideration of stakeholder comments.
8. The Committee noted its requirement to report by March 31, 2024. However, given that its deliberations had just commenced, it agreed to submit an interim report requesting additional time to complete its work.

SECOND MEETING

9. At its **Second Meeting** held on Tuesday 26 March, 2024, your Committee resumed discussions on the matrix of key issues and recommendations raised by stakeholders.

10. The Committee discussed the value to be derived from engaging in further stakeholder consultations at this stage. It was agreed that the following stakeholders should be invited to an in-person meeting to provide views and opinions:
- (i) The Criminal Bar Association;
 - (ii) Judiciary;
 - (iii) Judicial Education Institute (JEI);
 - (iv) Trade Unions, Chambers of Industry and Commerce, and other representatives of the business community;
 - (v) NGOs (such as the Rape Crisis Center); and
 - (vi) the Victim and Witness Support Unit of the TTPS.

REPORT

11. Your Committee wishes to report that additional time is required to:
- (i) consult additional stakeholders;
 - (ii) consider the written comments by Stakeholders;
 - (iii) undertake a clause-by-clause consideration of the Bill; and
 - (iv) compile proposed amendments (if any) to the Bill.
12. In accordance with **Standing Order 104 (1)**, your Committee wishes to report that it is unable to complete its work and submit its final report by the stipulated deadline of March 31, 2024.

RECOMMENDATION

13. Your Committee, therefore, recommends that:
- i. It be granted an extension of time to continue its work and report by **May 31, 2024**.
 - ii. During the period of extension, your Committee proposes to complete its consideration of oral and written submissions from stakeholders, undertake a clause-by-clause examination of the Bill and prepare proposed amendments (if any), with the assistance of the Chief Parliamentary Counsel and the Criminal Justice Unit, AGLA.

Respectfully Submitted,

Mr. Reginald Armour, SC
Chairman

Mr. Randall Mitchell
Member

Ms. Allyson West
Member

Mrs. Renuka Sagrarsingh-Sooklal
Member

Mrs. Jayanti Lutchmedial-Ramdial
Member

Mr. Anthony Vieira, SC
Member

Professor Gerard Hutchinson
Member

April 15, 2024

APPENDIX I

ATTENDANCE RECORD

AND

MINUTES OF PROCEEDINGS

**ATTENDANCE RECORD
SPECIAL SELECT COMMITTEE ON
THE MISCELLANEOUS PROVISIONS (TRIAL BY JUDGE ALONE) BILL, 2023**

MEMBERS	1ST MEETING 19.03.2024	2ND MEETING 26.03.2024
Mr. Reginald Armour, SC (Chairman)	√	√
Mr. Randall Mitchell	Exc.	Exc.
Ms. Allyson West	Exc.	√
Mrs. Renuka Sagrarsingh-Sooklal	√	√
Mrs. Jayanti Lutchmedial-Ramdial	√	√
Mr. Anthony Vieira, SC	√	√
Professor Gerard Hutchinson	√	√

*exc- excused

abs- absent

**CONFIRMED MINUTES OF THE 1st MEETING,
[4th SESSION (2023/2024), 12th PARLIAMENT]
OF THE SPECIAL SELECT COMMITTEE (SENATE)
APPOINTED TO CONSIDER AND REPORT ON
THE MISCELLANEOUS PROVISIONS (TRIAL BY JUDGE ALONE) BILL, 2023
HELD IN THE ARNOLD THOMASOS WEST MEETING ROOM
ON TUESDAY MARCH 19, 2024**

PRESENT

Members

Mr. Reginald Armour, S.C.	Chairman
Mrs. Renuka Sagrarsingh-Sooklal	Member
Mr. Anthony Vieira, S.C.	Member
Mrs. Jayanti Lutchmedial-Ramdial	Member
Professor Gerard Hutchinson	Member

Secretariat

Mr. Julien Ogilvie	Secretary
Ms. Sherlana Ramdeen	Assistant Secretary
Ms. Cherylee Legair	Parliamentary Research Specialist

Excused

Ms. Allyson West	Member
Mr. Randall Mitchell	Member

Office of the Attorney General and Ministry of Legal Affairs

Ms. Lorraine John	Assistant Chief Parliamentary Counsel
Mr. Parvin Sookhai	Senior Parliamentary Counsel
Mr. Matthew Bernard	Legal Research Officer, CJU
Ms. Nalini Ramjit-Ransome	Legal Counsel I, CJU

CALL TO ORDER

- 1.1 The Chairman called the meeting to order at 10:12 a.m. and welcomed Members present.

ANNOUNCEMENTS BY THE CHAIRMAN

- 2.1 The Chairman indicated that Ms. Allyson West asked to be excused from the meeting.
- 2.2 The Chairman introduced the Secretariat team assigned to the Committee.

QUORUM

- 3.1 The Chairman advised that in accordance with Standing Order 102 (5) of the Senate, that unless the House or Senate otherwise directs, the quorum of the Committee shall be three (3) Members inclusive of the Chair.

TERMS OF REFERENCE

- 4.1 The Chairman informed Members that Professor Gerard Hutchinson was newly appointed to the Committee and welcomed him.
- 4.2 The Chairman referenced that by resolution approved in the Senate at a sitting held on Tuesday January 23, 2024, the Committee was established to consider and report on the Bill entitled “An Act to amend the Jury Act, Chap. 6:53 and the Criminal Procedure Act, Chap. 12:02 and for related matters”.
- 4.3 The Chairman reminded Members of the Committee’s terms of reference:
 - i. to adopt the work of the Special Select Committee appointed in the Third Session 2022/2023; and
 - ii. to report to the Senate by March 31, 2024.
- 4.4 The Chairman also reminded Members that in accordance with Standing Order 67(1) of the Senate, *“any Committee to which a Bill is committed after second reading shall not discuss the general merits and principles of the Bill, but only its details”*.

DISCUSSIONS ON THE WAY FORWARD

- 5.1 The Chairman confirmed that Members were in receipt of the following documents:
 - i. Bill Essentials re: The Miscellaneous Provisions (Trial by Judge Alone) Bill, 2023;

- ii. The Report of the previous Committee appointed in the last Session (2022-2023); and
- iii. Matrix of Key Issues and Recommendations raised by Stakeholders (with responses from CPC and AG) dated March 13 2024.

5.2 The Chairman informed Members that in the last session, twelve stakeholders were invited to provide written submissions on the above-stated Bill. Of these, only the written submission of the Office of the Director of Public Prosecutions (DPP) remained outstanding. In this regard, the Secretariat was instructed to request an update from the DPP.

5.3 Members agreed to submit any other proposed stakeholders via email to the Secretariat.

5.4 The Secretariat was instructed to circulate the updated *Criminal Procedure Rules, 2023* for Members' consideration.

5.5 The Committee agreed to:

- i. consider the recommendation by the Chairman for an interim report to be laid in the Senate by March 31, 2024, requesting that further time be granted to the Committee to complete its work; and
- ii. convene in-person meetings on Tuesday, and possibly Friday mornings at 10:30 a.m.

CONSIDERATION OF MATRIX OF KEY ISSUES AND RECOMMENDATIONS RAISED BY STAKEHOLDERS (WITH RESPONSES FROM CPC AND AG) DATED MARCH 13, 2024.

6.1. A brief discussion, led by Mr. Vieira, was held on the comments of stakeholders;

6.2 The Committee deliberated on the following:

- a. the different trial options that can be afforded to an accused by the Court; and
- b. the meaning and application of the term “in the interest of Justice” **as stated in the Judiciary Bill.**

OTHER BUSINESS

7.1. The Committee agreed to next meet on Tuesday March 26, 2024 at 10:30 a.m. to resume its review of the Matrix of Key Issues and Recommendations raised by Stakeholders (with responses from

the CPC and AG Policy Team) and to discuss the presentation of an interim report.

ADJOURNMENT

8.1. The adjournment was taken at 10:37 a.m.

I certify that the Minutes are true and correct.

Chairman

Secretary

March 20, 2024

**UNCONFIRMED MINUTES OF THE 2nd MEETING,
[4th SESSION (2023/2024), 12th PARLIAMENT]
OF THE SPECIAL SELECT COMMITTEE (SENATE)
APPOINTED TO CONSIDER AND REPORT ON
THE MISCELLANEOUS PROVISIONS (TRIAL BY JUDGE ALONE) BILL, 2023
HELD IN THE ARNOLD THOMASOS WEST MEETING ROOM
ON TUESDAY MARCH 26, 2024**

PRESENT

Members

Mr. Reginald Armour, S.C.	Chairman
Ms. Allyson West	Member
Mrs. Renuka Sagrarsingh-Sooklal	Member
Mr. Anthony Vieira, S.C.	Member
Mrs. Jayanti Lutchmedial-Ramdial	Member
Professor Gerard Hutchinson	Member

Secretariat

Ms. Sherlana Ramdeen	Assistant Secretary
Ms. Cherylee Legair	Parliamentary Research Specialist

Excused

Mr. Randall Mitchell	Member
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Office of the Attorney General and Ministry of Legal Affairs

Ms. Lorraine John	Assistant Chief Parliamentary Counsel
Ms. Farah Abdool	Senior Legal Counsel, CJU
Ms. Delisier Blackman	Legal Counsel I, CJU
Mr. Matthew Bernard	Legal Research Officer, CJU

CALL TO ORDER

- 1.1 The Chairman called the meeting to order at 10:38 a.m. and welcomed Members present.

ANNOUNCEMENTS BY THE CHAIRMAN

- 2.1 The Chairman indicated that Mr. Randall Mitchell asked to be excused from the meeting.

CONFIRMATION OF MINUTES OF THE 1ST MEETING HELD ON TUESDAY MARCH 19 2024

- 3.1 The Chairman invited Members to consider the Minutes page-by-page and enquired whether there were any amendments.
- 3.2 The Committee agreed that the Minutes be amended at Item 6.2 (b) to include the words “as stated in the Judiciary Bill” after the words “in the interest of Justice”.
- 3.3 The Minutes were confirmed with an amendment by the Chairman and seconded by Mr. Anthony Vieira, S.C.

MATTERS ARISING FROM THE MINUTES

- 4.1 **Per Item 5.2, page 3:** The Chairman informed the Committee that by letter dated March 22, 2024, the Secretariat wrote to the DPP’s Office requesting an update on its written submission re: the Miscellaneous Provisions (Trial by Judge Alone) Bill, 2023. The DPP’s Secretariat acknowledged receipt of the letter and indicated that a response will be forthcoming.
- 4.2 **Per Item 5.4, page 3:** The Chairman informed the Committee that the Criminal Procedure Rules 2023 were circulated to Members on Friday March 22, 2024.

CONSIDERATION OF MATRIX OF KEY ISSUES AND RECOMMENDATIONS RAISED BY STAKEHOLDERS (WITH RESPONSES FROM CPC AND AG) DATED MARCH 13, 2024.

- 5.1 The Committee resumed its discussion on the Matrix of Key Issues and Recommendations raised by Stakeholders.
- 5.2 The Chairman informed the Committee that a document containing a summary of comments was submitted by Mr. Anthony Vieira, S.C. and directed the Secretariat to circulate same to Members.
- 5.3 The Committee deliberated on the following:
- a) Using the definition of ‘interest of justice’ derived from the Bill submitted by the Judiciary and contained in the Criminal Procedure Rules, 2023;
 - b) Defining the term ‘lay assessor’ and the nexus between lay assessors and expert witnesses;

- c) The independence of lay assessors in the context of preliminary applications by the prosecution or defense for the appointment of a lay assessor;
- d) Issues of fairness and transparency surrounding the appointment of lay assessors;
- e) Utilising 'specialised jurors' as opposed to lay assessors;
- f) The impact of pre-trial publicity in relation to Judge alone trials for offences that persons would react negatively to, such as murder;
- g) There are two options on the table for further discussion with respect to redrafting Clause 4 of the Bill:
 - i. The option to limit the use of Judge alone trials to particular offences, such as sexual offences, trafficking in firearms and trafficking in persons. The limited offences would be listed in a schedule to the Bill;
 - ii. The option to provide that an accused person committed for trial shall be committed, on an indictment, to be tried by a Judge alone unless the prosecution or the accused elects to be tried by a Judge and jury, and the Judge so determines in the interest of justice. Further consideration needs to be given to whether the judge should have the discretion to override the option chosen by the prosecution or the accused.

DISCUSSIONS ON THE WAY FORWARD

6.1 The Committee agreed to the following:

- a) The Secretariat was directed to request another update from the Office of the Director of Public Prosecutions with respect to its written submission, if no response is provided by the deadline of March 28, 2024;
- b) The Secretariat was directed to prepare an Interim Report of the Committee to be laid in the Senate, requesting that further time be granted to the Committee to complete its work;
- c) To revisit and reflect on inserting a definition of "interest of justice" as provided by the Judiciary and the Criminal Procedure Rules, 2023;
- d) To give further consideration to the two options presented at 5.3 (g) above with respect to redrafting Clause 4 of the Bill;
- e) That the following proposed stakeholders be invited in person to a subsequent meeting of the Committee to provide their views and opinions:
 - i. Criminal Bar Association;
 - ii. Judiciary;
 - iii. Judicial Education Institute (JEI);
 - iv. Trade unions, Business Chambers and organisations representing the

- business community;
- v. NGOs (e.g., the Rape Crisis Center);
- vi. TTPS Victim and Witness Support Unit.

- f) The Committee requested that Professor Gerard Hutchinson provide a perspective on being an expert witness and how expert witnesses can serve as lay assessors, at its next meeting;

OTHER BUSINESS

- 7.1. The Committee agreed to schedule its next meeting to a date to be fixed subsequent to the Easter break.

ADJOURNMENT

- 8.1. The adjournment was taken at 11:44 a.m.

I certify that the Minutes are true and correct.

Chairman

Secretary

April 04, 2024