



## **ST HELENA**

### **A BILL**

### **FOR**

### **AN ORDINANCE**

**to amend the Criminal Procedure Ordinance, Cap. 23, to make provision for the prosecution to apply for a trial to be conducted without a jury in certain circumstances.**

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Enacted by the Governor of St Helena with the advice and consent of the Legislative Council of St Helena.

#### **Citation**

**1.** This Ordinance may be cited as the Criminal Procedure (Amendment) Ordinance, 2016.

#### **Election for trial by jury or by judge alone**

**2.** Section 167 of the Criminal Procedure Ordinance, Cap. 23, is repealed and the following is substituted therefor:

##### **“Election for trial by jury or by judge alone**

**167. (1)** When a defendant is committed for trial, one of the Justices or the Clerk of the Court must explain to the defendant that he or she has the right to elect whether to be tried by jury or by the Chief Justice or a trial judge sitting alone and must call on the defendant to make an election.

**(2)** An indication of election may be given by the defendant’s legal representative.

**(3)** An election under subsection (1), once made, may not be changed except for good reason and with the leave of the Chief Justice or trial judge, but may be set aside as provided by subsections (5) and (6).

**(4)** Subject to subsections (5) and (6)—

**(a)** if the defendant refuses to elect or remains silent, the trial must be with a jury;

**(b)** if there is more than one defendant to an indictment, and one of them elects trial by jury, the trial must be with a jury.

(5) If at least two attempts to swear in a jury fails on the ground it cannot be impartial, the prosecution may apply to the judge for the case to be tried in the interests of justice by a judge sitting alone.

(6) Upon such an application, and after hearing representations from each of the defendants, the judge may order the trial to be by a judge sitting alone.

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**EXPLANATORY NOTE**

*(This note is not part of the Ordinance)*

This Ordinance amends the Criminal Procedure Ordinance, Cap. 23, to make provision for the prosecution to apply to a judge to have a trial conducted by a judge alone where the selection of an impartial jury will be difficult and it is desirable in the interests of justice for the case to be tried by a judge alone.