

A BILL

ENTITLED

AN ACT to Provide for special measures for upholding and preserving the rule of law, public order, citizen security and public safety within certain geographically defined areas of Jamaica; and for connected matters.

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BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

PART I—*Preliminary*

1. This Act may be cited as the Law Reform (Zones of Special Operations) (Special Security and Community Development Measures) Act, 2017. Short title.

Interpretation.

2. In this Act, unless the context otherwise requires—

“Committee” means the Social Intervention Committee of the Zone established under section 23;

“document” means in addition to a document in writing, any thing or manner in which information of any description is recorded or stored;

“Jamaica” includes—

- (a) the Exclusive Economic Zone established under section 3 of the *Exclusive Economic Zone Act*;
- (b) the archipelagic waters of Jamaica as defined in section 5 of the *Maritime Areas Act*; and
- (c) the territorial sea of Jamaica as defined in section 12 of the *Maritime Areas Act*;

“Joint Command” means the persons designated under section 8(1);

“Joint Force” means the members of the Jamaica Defence Force and the members of the Jamaica Constabulary Force who are assigned to operate within a Zone;

“Justice of the Peace” means a Justice of the Peace who has exercised summary jurisdiction in a Parish Court;

“Minister” means the Prime Minister;

“National Security Council” means the committee of Cabinet with responsibility for defence and national security;

“Prime Minister in Council” means the Prime Minister acting in accordance with the advice of the National Security Council;

“Zone” means the area declared as a zone of special operations under section 4.

Objects of Act.

3. The objects of this Act are to—

- (a) empower the Prime Minister in Council to declare an area as a zone of special operations;

- (b) uphold the rule of law while protecting the fundamental rights and freedoms of persons who reside or conduct lawful business in a Zone;
- (c) conduct law enforcement activities to rid a Zone of all illegal weapons, ammunition and other contraband;
- (d) empower members of the Joint Force to search a person, vehicle or place without a warrant, within a Zone, if they reasonably suspect that an offence has been, is being or is about to be committed;
- (e) provide that the Joint Command may establish a cordon and declare a curfew in a Zone;
- (f) promote social and economic development in a Zone through the efforts of various Government agencies and civil society; and
- (g) provide for the establishment of the Committee to, among other things, develop a sustainable development plan for the Zone.

PART II—Zone of Special Operations

4.—(1) Subject to subsection (6), the Prime Minister in Council, Declaration of Zone. may, by order, declare any geographically defined area within a single continuous boundary in Jamaica, as a zone of special operations for a period not exceeding sixty days if the circumstances set out in subsection (2) exist.

(2) The circumstances referred to in subsection (1) are that there are reasonable grounds to believe that due to rampant criminality, gang warfare, escalating violence and murder and the threat to the rule of law and public order, it is necessary so to do.

(3) Subject to subsection (4), every order made under subsection (1) shall specify—

- (a) the geographical limits of the Zone; and

(b) the period during which the Zone is to operate.

(4) The entire Island shall not be declared as a Zone.

(5) On the recommendation of the Joint Command, the Prime Minister in Council may, from time to time, by order, amend, vary or add to the geographical limits of a Zone.

(6) For the avoidance of doubt it is declared that the Prime Minister in Council may only declare an area as a Zone if the Commissioner of Police and the Chief of Defence Staff have agreed in writing that the area should be so declared.

Extensions of periods. 5. The Prime Minister in Council, after consultation with the Joint Command, may by order subject to affirmative resolution of the House of Representatives, extend the period referred to in section 4(3), for such further periods, each not exceeding sixty days.

Statement to Parliament. 6. Within fourteen days of the declaration of a Zone and after each extension, the Minister shall make a statement to Parliament.

Revocation of the order. 7. The order declaring a Zone may be revoked, at any time, by the Prime Minister in Council.

PART III—*Administration of Special Operation Within Zone*

Designation of Joint Command. 8.—(1) Where a Zone has been declared, the Prime Minister in Council shall designate a member of the Jamaica Defence Force, not below the rank of Major, nominated in writing by the Chief of Defence Staff and a member of the Jamaica Constabulary Force, not below the rank of Superintendent, nominated in writing by the Commissioner of Police, to be jointly in charge of operations within the Zone.

(2) The Joint Command and every member of the Joint Force shall be persons who, in addition to their general training as members of the Jamaica Defence Force and the Jamaica Constabulary Force, are additionally trained in human rights, the use of force and community development initiatives.

(3) Every Zone shall have a written accountability and reporting system as specified by the National Security Council.

(4) The Joint Command and every member of the Joint Force shall comply with the written accountability and reporting system referred to in subsection (3).

(5) Any person who fails to comply with subsection (4) is liable to disciplinary action under the *Constitution of Jamaica*, or the *Defence Act*, as the case may be.

9.—(1) During the period that a Zone is declared, each member of the Joint Command through the Commissioner of Police or the Chief of Defence Staff, as is appropriate, shall submit a written report to the National Security Council every ten days.

Duty of Joint Command to submit report.

(2) A member of the Joint Command who fails to comply with subsection (1) is liable to disciplinary action under the *Constitution of Jamaica* or the *Defence Act*, as the case may be.

10.—(1) The Prime Minister in Council may suspend the operations in a Zone where the Prime Minister in Council on the written recommendation of the Commissioner of Police and the Chief of Defence Staff considers necessary.

Suspension of operation or change of Joint Command.

(2) The Prime Minister in Council may change the Joint Command of a Zone—

- (a) in the case of the member nominated by the Chief of Defence Staff, on the recommendation of the Chief of Defence Staff;
- (b) in the case of the member nominated by the Commissioner of Police, on the recommendation of the Commissioner of Police.

11. Subject to the approval of the National Security Council, the Joint Command shall determine the method by which the identity of each member of the Joint Force who is conducting operations within a Zone may be ascertained.

Identification of members of Joint Force.

PART IV—*Powers of Joint Force in Zone*

Powers of
Joint
Command to
establish
cordons and
impose
curfews.

12.—(1) Subject to subsection (2), the Joint Command may do either or both of the following, in any Zone—

- (a) establish a cordon around or within the Zone; or
- (b) impose a curfew in the Zone between such hours as may be specified requiring persons within that Zone to remain within their premises during the hours so specified unless otherwise authorized in writing by the member of the Joint Force who is in charge of enforcing the curfew.

(2) For the avoidance of doubt, whenever the Joint Command takes action under subsection (1), any member of the Joint Force may for the purpose of enforcing such action, exercise such powers as are vested in a Constable.

Duration of
cordon and
curfew.

13. Where a cordon or curfew is established or imposed under section 12(1)—

- (a) the cordon shall endure for a period not exceeding twenty-four hours;
- (b) the curfew shall endure for a period not exceeding seventy-two hours.

Search and
seizure.

14.—(1) A member of the Joint Force may search any place, vehicle or person within a Zone, without a warrant, upon reasonable suspicion that an offence is in the course of being committed or has been committed or is about to be committed.

(2) Where a search of any place, vehicle or person is being undertaken, it shall be the duty of the person in charge of the search to take such steps as are reasonably practicable in the circumstances of the case to ensure—

- (a) the attendance, at all stages of the search, of the owner or person in possession of the vehicle or, as the case may be, the agent of the owner or occupier of the place or the owner or person in possession of the vehicle;

- (b) that the owner or occupier of the place or the owner or person in possession of the vehicle or, as the case may be, of the owner, the agent or the occupier of the place or the owner or person in possession of the vehicle, is afforded every opportunity to observe everything done in relation to the search; and
- (c) that a female shall be searched by another female.

(3) A constable, may in connection with a search, seize any vehicle, article or document that will assist in preventing or controlling public disorder or that is likely to be of substantial value whether or not by itself, to the investigation of any offence.

(4) A constable shall not seize—

- (a) any tool of a lawful trade or business unless the Constable has reasonable grounds to believe that the tool was used or is being used in the Commission of an offence.
- (b) any article or document that is subject to legal professional privilege.

(5) The constable shall take such steps as are necessary to ensure that—

- (a) a list is compiled of all vehicles, articles or documents seized; and
- (b) a receipt for any vehicle, article or document, as the case may be, which is included in the list, is given to the owner or person in possession of that vehicle, article or document or the agent of the owner or person in possession of the vehicle.

15.—(1) Any vehicle, article or document seized shall be secured in such place as an officer designated by the Joint Command may approve pending determination of any examination, investigation, trial or enquiry.

Custody or disposal of things seized.

(2) If anything seized is perishable, it shall be disposed of in such manner as may be approved by the officer referred to in subsection (1).

(3) Where an officer referred to in subsection (1) has reasonable grounds to believe that any vehicle, article or document seized is no longer of evidential value in any criminal proceedings arising from or in connection with a search, that officer shall, forthwith, cause the vehicle, article or document to be returned to the owner or person in possession or the agent of the owner or person in possession, and shall cause the owner, person in possession or agent, as the case may be, to sign a receipt for that vehicle, article or document.

Arrest or
detention.

16. —(1) Where the Joint Force is carrying out operations in a Zone in relation to which any action is taken under section 12(1), a person shall not be arrested or detained unless the person in charge of the operations is satisfied that there is reasonable ground for the arrest or detention of the person.

(2) Where any person is arrested or detained under this Act, that person shall—

- (a) at the time of his arrest or detention, or as soon as is reasonably practicable be informed, in a language which he understands, of the reasons for his arrest or detention; and
- (b) forthwith be taken before a Justice of the Peace who shall determine whether or not there are reasonable grounds for the arrest or detention.

(3) If a Justice of the Peace is satisfied that the arrest or detention of any person is reasonably required in the interest of justice he may, having regard to such further investigations as may be necessary, order that—

- (a) the person shall be remanded in custody for a period not exceeding twenty-four hours; and
- (b) at the expiration of the period of twenty-four hours, the person shall be taken before a Judge of a Parish Court:

Provided that where it is intended to hold an identification parade in respect of that person the provisions of section 63A of the *Judicature (Parish Courts) Act* shall apply.

(4) Where a Justice of the Peace makes an order under subsection (3) in respect of any person, such person shall be taken to a police station or lock-up without delay, and an entry shall be made in the appropriate Register in accordance with the *Prisons (Lock-ups) Regulations, 1980*.

(5) Where a Justice of the Peace is not satisfied that the arrest or detention of any person is reasonably required in the interest of justice, he shall order that the person be released forthwith.

17.—(1) Where any person is in custody for twelve hours and no order has been made by a Justice of the Peace under section 16(3) the officer in charge of the police station or lock-up shall inform an officer not below the rank of Assistant Superintendent (hereinafter referred to as the “prescribed officer”) of the circumstances of the case and shall record in the station Diary the fact that the officer has been so informed.

Persons held
in custody.

(2) The prescribed officer shall, upon receipt of the information referred to in subsection (1), cause such investigations as he thinks necessary to be made into the circumstances of each case and shall cause such person to be brought forthwith before a Justice of the Peace.

18.—(1) Every complaint made by or concerning a person arrested or detained shall be recorded in the station Diary.

Treatment of
persons
arrested or
detained.

(2) A person who is arrested or detained under this Part shall, during such times as may be determined by the prescribed officer, be allowed such visits as may be permitted having regard to matters of security and safety of persons.

(3) Notwithstanding the provisions of subsection (2), the spouse, partner, family member, religious counsellor, registered medical practitioner of his choice, and attorney-at-law shall be permitted to visit, at any time, a person referred to in that subsection.

(4) Where a person requests the visit of a registered medical practitioner of his choice, other than one provided by the State, the person shall be responsible for any expense incurred.

(5) Particulars of each visit shall be recorded in the appropriate Register.

(6) A person who is arrested or detained under this Part—

- (a) shall be allowed to receive articles of food and clothing or such other article as is necessary in the interest of his health or welfare; but
- (b) shall not be allowed to receive any article which may endanger his health or the safety of his person or any officer or any other person.

(7) Where it appears to any member of the Joint Force that a person who is arrested or detained at a police station or lock-up is ill or requires medical attention, whether or not that person complains of illness, the member of the Joint Force shall, without delay, take such steps as are necessary to cause that person to be given medical attention.

Use of body-worn cameras.

19.—(1) A member of the Joint Force shall, as far as is possible, having regard to available resources, use a body-worn camera when conducting operations within a Zone.

(2) The Chief of Defence Staff and the Commissioner of Police shall establish and review the protocols and procedures for the use of body-worn cameras in Zones and, notwithstanding the generality of the foregoing, the protocols and procedures may provide for—

- (a) the circumstances in which body-worn cameras may be used within the Zone;
- (b) the categories of persons who may access the data collected and in what circumstances;
- (c) the use of the data collected;
- (d) when body-worn cameras may be activated or deactivated;
- (e) the circumstances in which a member of the Joint Force will be required to inform a member of the public that persons are being recorded;

- (f) how the members of the Joint Force document time and reason for deactivating body-worn cameras; and
- (g) training in the use of body-worn cameras.

20. Weapons (including the ballistic signature) and ammunition that are assigned to members of the Joint Force shall be registered with the Institute of Forensic Science and Legal Medicine prior to the conduct of operations within the Zone, unless the Chief of Defence Staff or the Commissioner of Police determine otherwise.

Registration of weapons.

21.—(1) A member of the Joint Force may require a person within a Zone whose identity is unknown to the member to disclose his full and correct name (including any alias) and his full and correct address where the member has reasonable cause to suspect that the person is in the course of committing, has committed or is about to commit an offence or can assist in the investigation of an offence.

Duty to disclose identity on request.

(2) A person within a Zone who is requested by a member of the Joint Force to disclose his identity under subsection (1) shall not, without reasonable excuse, fail or refuse to comply with the request.

(3) A person shall not, without reasonable excuse, in response to a request made by a member of the Joint Force under subsection (1)—

- (a) give a name that is false in a material particular; or
- (b) give an address other than the person's full and correct address.

(4) A person who contravenes subsection (2) or (3) commits an offence and is liable on summary conviction in a Parish Court to a fine not exceeding one hundred thousand dollars or in default of payment of the fine to imprisonment for a term not exceeding ten days.

22. A member of the Joint Force is deemed to be—

- (a) an Attendance Officer for the purpose of section 23 of the *Education Act*; and

Duty under law for the protection of children.

- (b) a prescribed person for the purpose of section 6 of the *Child Care and Protection Act*.

PART V—*Social Intervention Committee*

Establishment of Social Intervention Committee. **23.**—(1) For the purposes of this Act, the Prime Minister in Council shall, within five working days of the declaration of a Zone, establish a committee to be styled the “Social Intervention Committee”.

First Schedule. (2) The provisions of the First Schedule apply to the Committee.

Functions of Committee. **24.**—(1) The Committee shall—

- (a) assess conditions within the Zone, including the state of the physical infrastructure, health, environment, land tenure, housing and settlements;
- (b) identify the threats to sustainable development of the communities within the Zone;
- (c) develop a sustainable development plan which will include addressing issues relating to health, the environment, social improvement, infrastructural development, education and economic development;
- (d) recommend social interventions within the Zone, including compulsory school attendance areas and local improvement and urban renewal initiatives; and
- (e) coordinate the implementation of social intervention programmes by the relevant public bodies.

(2) The Minister shall cause the terms of reference of each Committee to be prepared and transmitted to the Minister for approval.

(3) In making recommendations under this section, the Committee shall take into account the basic needs of the communities within the Zone.

(4) The Committee shall pay particular attention to vulnerable persons who live, work and attend school in the Zone, especially children, the elderly and persons with disabilities.

PART VI—*General*

25. The Minister may make regulations for the better carrying out of the provisions and purposes of this Act. Regulations.

26.—(1) This Act shall be reviewed, from time to time, by a committee of both Houses of Parliament appointed for the purpose. Review of
Act by
Parliamentary
Committee.

(2) The first such review shall be conducted not later than three years after the date of declaration of the first Zone.

27.—(1) The enactments specified in the first column of the Second Schedule are amended in the manner specified respectively in relation to them in the second column of the Second Schedule. Amendment
of
enactments
and
construction.

(2) Each amendment shall be construed as one with the enactment specified in relation to the amendment.

FIRST SCHEDULE (Section 23)

Social Intervention Committee

1. The Committee shall be comprised of at least ten persons selected from among the following—

Constitution
of
Committee.

- (a) the Minister or his nominee, who shall be the Chairman of the Committee;
- (b) the Member of Parliament of the constituency within which the Zone is, or if the Zone is situate in two or more constituencies, the Members of Parliament of the constituencies or their nominees;
- (c) the Custos appointed with jurisdiction over the Parish within which the Zone is located or the nominee of the Custos;
- (d) the Mayor of the principal town of the Parish within which the Zone is located or the Mayor's nominee;
- (e) the Chief of Defence Staff or the nominee of the Chief of Defence Staff;
- (f) the Commissioner of Police or the nominee of the Commissioner of Police;
- (g) an attorney-at-law;
- (h) the Permanent Secretary in the Ministry responsible for social security or the nominee of the Permanent Secretary in the Ministry responsible for social security;
- (i) the Permanent Secretary in the Ministry responsible for national security or the nominee of the Permanent Secretary in the Ministry responsible for national security;
- (j) the Permanent Secretary in the Ministry responsible for health or the nominee of the Permanent Secretary in the Ministry responsible for health;
- (k) the Permanent Secretary in the Ministry responsible for economic growth or the nominee of the Permanent Secretary in the Ministry responsible for economic growth;
- (l) a representative of the Planning Institute of Jamaica;

- (m) the Medical Officer (Health) appointed under the *Public Health Act* or the nominee of the Medical Officer (Health) who shall be a registered medical practitioner within the meaning of the *Medical Act*;
- (n) a representative of the Social Development Commission;
- (o) a representative of the National Works Agency;
- (p) a representative of the National Land Agency;
- (q) a representative from the National Water Commission;
- (r) the Senior Education Officer, Guidance and Counselling Unit, Regional Office of the Ministry responsible for education;
- (s) a person who the Minister is satisfied is a representative of a *bona fide* community group active in the Zone;
- (t) a person who the Minister is satisfied lives or works in the Zone; and
- (u) any other person who, or agency that, in the opinion of the Minister, can assist with the work of the Committee.

Appointment. 2.—(1) The members of the Committee shall be appointed by the Minister by instrument in writing.

(2) A member of the Committee shall, subject to the provisions of this Schedule, hold office for a period as the Minister may specify in the instrument of appointment and each member of the Committee shall be eligible for reappointment.

Chairman and Deputy Chairman. 3.—(1) The Minister shall appoint one of the members of the Committee to be the Deputy Chairman of the Committee.

(2) The Chairman shall preside at all meetings of the Committee and if the Chairman is absent from a meeting, the Deputy Chairman shall preside.

(3) In the absence of the Chairman and Deputy Chairman, the members of the Committee present and constituting a quorum, shall elect one of their number to chair the meeting.

Publication
of
membership
in *Gazette*.

4. The names of the members of the Committee as first constituted and every change in the membership of the Committee shall be published in the *Gazette*.

Procedure
and meetings.

5.—(1) The Committee shall meet at such intervals as may be necessary or expedient for the transaction of business; and the meetings shall be held at the places and times and on the days as the Committee may determine.

(2) The Chairman—

- (a) may call a special meeting of the Committee at any time; and
- (b) shall call a special meeting within seven days of the receipt of a written request for that purpose addressed to the Chairman by any three members of the Committee.

(3) The quorum for meetings of the Committee shall be five.

(4) Decisions of the Committee shall be by a majority of the members present and voting, however, in addition to an original vote, the chairman, deputy chairman or other member presiding at a meeting shall have an original and a casting vote in any case in which the voting is equal.

(5) The minutes of each meeting of the Committee shall be kept in proper form and shall be confirmed by the chairman as soon as practicable at a subsequent meeting.

(6) The validity of the proceedings of the Committee shall not be affected by a vacancy among the members of the Committee or a defect in the appointment of a member of the Committee.

(7) Subject to this Schedule, the Committee may regulate its own proceedings.

Invites to
meetings.

6.—(1) The Committee may, in its discretion, invite any person to attend any meeting of the Committee for the purpose of assisting the Committee in respect of any matter under its consideration.

(2) A person invited under sub-paragraph (1) may take part in the deliberations of the Committee on that matter, but shall not be entitled to vote at any meeting of the Committee.

7.—(1) A member who is, in any way, directly or indirectly interested in a contract made or proposed to be made by the Committee, in any other matter which falls to be considered by the Committee, shall— Disclosure of interest.

- (a) as soon as possible after the relevant facts have come to his knowledge, disclose or cause to be disclosed the nature of his interest at a meeting of the Committee; and
- (b) not be present during the deliberation of the Committee on the matter or take part in the decision of the Committee in relation to the matter under discussion.

(2) The disclosure shall be recorded in the minutes of the meeting.

(3) The member shall not—

- (a) in the case of a contract, take part in any deliberation or decision of the Committee with respect to the contract; and
- (b) in the case of any other matter, take part in any deliberation or decision of the Committee with respect to the matter, if the Committee decides that the interest in question might affect prejudicially the member's consideration of the matter.

(4) A notice given by a member at a meeting of the Committee to the effect that he is a member of a specific company, firm or other body and that he is to be regarded as interested in any contract which is to be made with the company, firm or body after the date of the notice shall, for the purposes of sub-paragraph (1), be a sufficient disclosure of his interest in relation to any contract so made.

(5) A member need not attend in person a meeting of the Committee in order to make a disclosure which he is required to make under this paragraph, if he takes reasonable steps to ensure that the disclosure is made by notice in writing to the Committee.

8.—(1) A member of the Committee shall not be personally liable for any act or default of the Committee done or omitted to be done in good faith in the course of the operations of the Committee. Liability of Committee.

(2) Where a member of the Committee is exempt from liability by reason only of this paragraph, the Committee shall be liable to

the extent that it would be if the member were a servant or agent of the Committee.

9. Any summons, notice or other document required or authorized to be served upon the Committee under this Act or any other enactment may, unless there is express provision to the contrary, be served by delivering the summons, notice or other document to the deputy chairman or secretary of the Committee. Service of documents.

10. The office of a member of the Committee shall not be a public office for the purpose of Chapter V of the *Constitution of Jamaica*. Office of a member not a public office.

SECOND SCHEDULE (Section 27)

Amendment of other Enactments

Acts	Amendments
—	—
<i>Constabulary Force Act</i>	
Section 5	Delete the words “he shall for such offence, forfeit and pay a penalty not exceeding twenty dollars, on summary conviction; and it shall be lawful for the Court, in case such penalty shall not be paid, to commit such person to an adult correctional centre with or without hard labour, for any period not exceeding three calendar months” and substitute therefor the words “he commits an offence and is liable on summary conviction in a Parish Court to a fine not exceeding two hundred and fifty thousand dollars or to imprisonment for a term not exceeding three months”.
Section 17	Delete the words “to a penalty not exceeding two hundred dollars and in default to imprisonment for a period not exceeding twelve months” and substitute therefor the words “on summary conviction in a Parish Court, to a fine not exceeding one million dollars and in default of payment of the fine to imprisonment for a term not exceeding six months”.
Section 19	Delete the words “shall be guilty of an offence and shall be liable on summary conviction before a Judge of the Parish Court, to a fine not exceeding two hundred dollars or to imprisonment, with or without hard labour, for a term not exceeding six months or to both such fine and imprisonment” and substitute therefor the words “commits an offence and is liable on summary conviction in a Parish Court, to a fine not exceeding one million dollars or to imprisonment for a term not exceeding twelve months”.

Acts	Amendments
Section 20	Delete the words "shall on summary conviction, be liable to a penalty not exceeding one thousand dollars and in default of payment thereof to imprisonment for any term not exceeding one month" and substitute therefor the words "commits an offence and is liable on summary conviction in a Parish Court, to a fine not exceeding one hundred thousand dollars and in default of payment of the fine to imprisonment for a term not exceeding one month".
Section 21	Delete the words "shall, upon summary conviction, be liable to a penalty not exceeding one thousand dollars and in default of payment thereof to imprisonment for any term not exceeding one month" and substitute therefor the words "commits an offence and is liable on summary conviction in a Parish Court, to a fine not exceeding one hundred thousand dollars and in default of payment of the fine to imprisonment for a term not exceeding one month".
Section 22(3)	Delete the words "he shall be guilty of an offence and shall be liable to a penalty not exceeding four dollars, to be recovered summarily before a Judge of the Parish Court, and in default of immediate payment, to be imprisoned, with or without hard labour, for any period not exceeding two months" and substitute therefor the words "commits an offence and is liable on summary conviction in a Parish Court, to a fine not exceeding two hundred thousand dollars and in default of payment of the fine to imprisonment for a term not exceeding two months".
Section 27	Delete the words "to a penalty not exceeding twenty dollars or to imprisonment, with or without hard labour, not exceeding three months" and substitute therefor the words "to a fine not exceeding five million dollars and in

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	default of payment of the fine to imprisonment for a term not exceeding three years”.
Section 28	Delete the words “a fine not exceeding twenty dollars and in default of payment to imprisonment with or without hard labour for a term not exceeding three months” and substitute therefor the words “a fine not exceeding five million dollars and in default of payment of the fine to imprisonment for a term not exceeding three years”.
Section 29	Delete the words “as aforesaid shall, for every offence, forfeit and pay a sum not exceeding twenty dollars or in default of payment to imprisonment with or without hard labour for a period not exceeding three months” and substitute therefor the words “, commits an offence and is liable on summary conviction in a Parish Court, to a fine not exceeding two hundred and fifty dollars and in default of payment of the fine to imprisonment for a term not exceeding three months”.
Section 30	Delete the words “two thousand dollars” and substitute therefor the words “one million dollars and in default of payment of the fine to imprisonment for a term not exceeding six months”.
Section 50B	<p>1. In subsection (4), delete the words “subsection (5)” and substitute the words “subsections (5) and (6)”.</p> <p>2. Delete subsection (5) and substitute therefor the following—</p> <p style="padding-left: 40px;">“ (5) The power of search granted under subsection (4) may be exercised without a warrant in relation to a dwelling house, vehicle or place for the purpose of apprehending any person upon reasonable suspicion that the person is in</p>

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the course of committing or has committed or is about to commit, an offence.

(6) Any member of the Security Forces may seize any vehicle or article that is found when a search has been conducted, that is likely to be of substantial value whether or not of itself, to the investigation for the purpose of which the search was conducted.

(7) A member of the Security Forces shall not seize—

- (a) any tool of a lawful trade or business, unless the member has reasonable grounds to believe that the tool was used or is being used in the commission of an offence; and
- (b) any article or document that is subject to legal professional privilege.”.

Section 69 Delete the words “before a Resident Magistrate, to imprisonment, with or without hard labour, for a term not exceeding three months, or to a fine not exceeding fifty dollars,” and substitute therefor the words “in a Parish Court, to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding three months”.

Section 70 Delete subsection (3) and substitute therefor the following—

“ (3) Every person who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction in a Parish Court, to a fine not exceeding one million dollars and in default of payment

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of the fine to imprisonment, for a term not exceeding twelve months.”.

New section 79 Insert next after section 78 the following section 79—

“Minister may amend monetary penalties.

79. The Minister may by order, subject to affirmative resolution, amend the monetary penalties set out in this Act.”.

Firearms Act

New sections 42A, 42B and 42C

Insert next after section 42 the following—

“Vehicles, etc. may be seized.

42A.—(1) Where a constable has reasonable cause to suspect that—

- (a) any firearm or ammunition; or
- (b) any vehicle, aircraft, vessel, article, enclosure, container or other storage facility, device or apparatus (hereinafter referred to as “specified equipment”),

is being used or has been used or is likely to be used in the commission of an offence under this Act, the constable may, without a warrant, search the specified equipment, and if the search reveals evidence that the specified equipment is being used or has been

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used for the commission of any offence, the constable may seize the specified equipment.

(2) Where a person is convicted of an offence under this Act in which any specified equipment seized under subsection (1) is used in committing the offence, the Court may, on an application by the Director of Public Prosecutions, order that the specified equipment be forfeited to the Crown.

“Vehicles,
etc. may be
seized.

42B.—(1) Where the Director of Public Prosecutions intends to apply to the Court for an order of forfeiture under subsection (2) of section 4 it shall, subject to subsection (4) of this section, notify in writing the owner of and any person (if known) having an interest in the specified equipment that he proposes to apply for the order.

(2) The owner or other person notified under subsection (1) may appear before the court at the hearing of the application, declare the nature of his interest and show cause why the specified equipment should not be forfeited.

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(3) Where the Director of Public Prosecutions is unable to ascertain the owner of or any person having an interest in any specified equipment to which this section applies, he shall publish a notice in a daily newspaper circulated in Jamaica regarding the intention to apply to the Court for an order for forfeiture, not less than fourteen days prior to the application.

(4) Notice shall not be required under subsection (1) if the seizure of the specified equipment was made in the presence of the owner or person having an interest in the specified equipment.

(5) If, upon the application of a person prejudiced by an order made under section 42A(2), the Court is satisfied that it is just in the circumstances of the case to revoke the order, the Court may revoke the order upon such terms and conditions, if any, as it deems appropriate, and without prejudice to the generality of the foregoing, may require the person to pay in respect of storage, maintenance, administrative expenses, security and insurance of the

specified equipment, such amount as may be charged by the person in whose custody the specified equipment was kept.

(6) An application to the Court under subsection (5) for the revocation of a forfeiture order shall be made within thirty days of the date of the making of the order or such longer period not exceeding three months, as the Court may allow.

Authority may recover cost and expenses of storing specified equipment.

42C. The Authority may institute proceedings against any person to recover the cost and expenses incurred in the removal and storage of any specified equipment as a civil debt in a Parish Court if a forfeiture order is not granted under section 42A(2).”

Passed in the House of Representatives this 28th day of June, 2017 with eighteen (18) amendments.

PEARNEL CHARLES, CD, MP, JP.
Speaker.

Passed in the Senate this 7th day of July, 2017 with thirteen (13) amendments.

THOMAS TAVARES-FINSON, CD, QC, JP.
President.

MEMORANDUM OF OBJECTS AND REASONS

Crime in Jamaica is a multidimensional problem that requires a multifaceted response. The homicide rate remains among the highest in the Caribbean Region. Over the period 2000–2015, Jamaica’s murder rates averaged 40 per 100,000, with the year 2000 recording 34.1 which is the lowest while 2009 recording 61.7 which is the highest.

This high crime situation in Jamaica is as a result of a combination of factors including rampant criminality, gang warfare, escalating violence and murder and the threat to the rule of law and public order. These profoundly serious problems, have threatened the existence of the rule of law in certain geographical locales in Jamaica, have deterred investment, destroyed capital formation, discouraged business development and lowered the perception of Jamaica in the international arena. This Act should not have the negative impact on Jamaica, which could likely occur if a declaration of a state of public emergency was made.

Consequently, this Bill seeks to balance the need for security and the need for giving the members of the JCF and JDF certain essential powers that are required to address serious crimes on the one hand and upholding the rule of law and protecting the fundamental rights and freedoms of citizens on the other hand.

ANDREW HOLNESS
Prime Minister.

A BILL

ENTITLED

AN ACT to Provide for special measures
for upholding and preserving the rule
of law, public order, citizen security
and public safety within certain
geographically defined areas of
Jamaica; and for connected matters.

As passed in the Honourable House of Representatives.

As passed in the Honourable Senate.
