

THE BAIL ACT
ACT, 2022
(Act of 2022)

ARRANGEMENT OF SECTIONS

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SCHEDULES.

ABILL

ENTITLED

AN ACT to Repeal and replace the Bail Act and to provide for connected matters.

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BE IT ENACTED by The King'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.—(1) This Act may be cited as the Bail Act, 2022. Short title.
2. In this Act— Interpretation.
 - “arrested” includes apprehended;
 - “bail centre” means any facility declared by the Minister, pursuant to section 21 to be a bail centre for the purposes of this Act;

“child” means an individual under the age of eighteen years;

“conviction” includes—

- (a) a finding of guilt;
- (b) a finding that a person is not guilty by reason of insanity;
- (c) a conviction of an offence for which an order is made placing the defendant on probation or discharging the defendant absolutely or conditionally;

“deciding official” means the court, Judge, Justice of the Peace, or constable (as the case may require) who is the competent legal authority on the matter of the grant of bail, or any question relating thereto, pursuant to this Act or any other law;

“defendant” means an individual who is—

- (a) charged with or convicted of an offence; or
- (b) detained or arrested for an offence, or for whose arrest a warrant (endorsed for bail) has been issued, and who has not yet been charged with the offence;

but does not include an individual committed in default of payment of any sum of money, or for want of sufficient distress to satisfy any sum of money, or for failure to do or abstain from doing anything required to be done or left undone;

“Judge” means a Judge of the Parish Court, a Judge of the Supreme Court, or a Judge of the Court of Appeal;

“offence” includes an alleged offence;

“surrender to custody” means surrendering into custody at the time and place appointed in the prescribed record;

“the prescribed record” means the record of a decision regarding bail, made pursuant to section 10.

3.—(1) This Act applies to the grant of bail to a defendant. Application.

(2) The question of bail where the defendant is a child shall, unless otherwise provided in any other Act, be determined by a Children’s Court, in accordance with the Child Care and Protection Act, so, however, that subsection (3) shall apply in respect of the provision of surety by a parent or guardian of the child.

(3) Subject to subsection (4), where a parent or guardian of a child consents to be surety for the child for the purposes of this section, that parent or guardian may be required to ensure that the child complies with all conditions that are imposed on the child for the grant of bail.

(4) Subsection (3) shall not apply in any case where it appears that the child will attain the age of eighteen years before the time appointed for the child to surrender to custody, unless the child is unmarried and is dependent on that parent or guardian for maintenance by reason of—

- (a) physical or mental infirmity or disability; or
- (b) by virtue of an order for maintenance remaining in force after the child attains the age of eighteen years, under section 16(3) of the Maintenance Act.

4. Bail may be granted by a deciding official, in accordance with this Act, pursuant to a power to grant bail conferred on that deciding official under this Act or any other law. Power to grant bail.

5.—(1) Where, on reasonable grounds that the defendant has committed an offence listed in Part I or II of the Second Schedule and punishable with imprisonment, the defendant is arrested or detained but has not yet been charged because more time is needed in order to prefer charges— Grant of bail prior to charge. Second Schedule.

- (a) the question of bail to the defendant shall, within the period of forty-eight hours after the time of the arrest or detention (as the case may be), be considered by—
 - (i) a Justice of the Peace; or

- (ii) a constable, at or above the rank of Superintendent, who is neither the arresting officer nor an officer involved in the investigation of the offence concerned;
- (b) after considering the matters specified in subsection (6)(a), (b), (c), (d), (e) or (g), the deciding official may grant bail to the defendant, or may refuse the grant of bail to the defendant on the ground of any of the matters so specified; and
- (c) where bail is not granted to the defendant after consideration is made pursuant to paragraph (b), a constable shall bring the defendant before a Judge of the Parish Court within forty-eight hours after the end of the period referred to in subsection (1)(a), for the question of bail to be determined in accordance with this Act.

(2) In any case where a Judge of the Parish Court denies bail to a defendant who is arrested or detained without being charged, the Judge shall specify the period within which the defendant shall be brought back before a Judge of the Parish Court for the question of bail to be reconsidered.

(3) Where an identification parade is required in relation to a defendant, the defendant shall, instead of the time specified in subsection (1), be brought before the Judge within one hundred and twenty hours after the arrest or detention.

(4) Where a defendant who is arrested or detained but has not yet been charged is released on bail, if a period of six months, or such further period as is extended under subsection (5), has elapsed without a charge being preferred against the defendant, the defendant shall be released unconditionally.

(5) The period of the defendant's release on bail may be extended for a further period of six months, on an *inter partes* application supported by affidavit and made before the expiration of the period referred to in subsection (4) by a constable to the senior Judge of the Parish Court in Chambers or such other Judge of the Parish Court as is designated for the purpose by that senior Judge.

(6) The Judge to whom an application is made under subsection (5) shall, in determining the application, take into account—

- (a) the grounds on which it is alleged there is reason to believe the defendant committed the offence;
- (b) the stage of the investigations so far, and the manner in which they have been conducted;
- (c) whether further time would enable a charge to be preferred against the defendant;
- (d) the conduct of the defendant;
- (e) the reasons given as to why the defendant has not yet been charged;
- (f) any conditions of bail imposed on the defendant; and
- (g) any other factors that the Judge considers relevant.

(7) After considering the matters referred to in subsection (6), the Judge may—

- (a) grant the application and confirm or vary the conditions of bail, and in granting the application may specify a further period of six months or such shorter period as the Judge considers appropriate for the extension of the defendant's bail; or
- (b) deny the application and order the unconditional release of the defendant.

(8) A deciding official who grants bail under this section may require the defendant to comply with any one or more of the conditions of bail specified in subsection (9) as appear to the deciding official to be necessary to secure that the defendant—

- (a) surrenders to custody;
- (b) does not commit an offence while on bail;
- (c) does not interfere with witnesses or otherwise obstruct the course of justice, whether in relation to the defendant or any other person.

- (9) The conditions referred to in subsection (8) are—
- (a) a requirement to report to a police station at specified times and dates;
 - (b) a requirement—
 - (i) to provide a surety to secure the defendant's surrender to custody; or
 - (ii) for payment of a bond in such amount as may be specified;
 - (c) a requirement not to contact directly or indirectly, or in any way communicate or associate with, witnesses;
 - (d) a requirement that the defendant inform the officer in charge of the nearest police station before the defendant travels overseas or outside of the community where the defendant resides;
 - (e) where the deciding official is a court, such other conditions as appear to the court to be necessary.

First
Schedule.

(10) A defendant may, by *inter partes* application to the senior Judge of the Parish Court in Chambers, or such other Judge of the Parish Court as is designated for the purpose by that senior Judge, and made with notice served on the divisional commander or the Commissioner of Police in the form set out in the First Schedule, appeal against any condition of bail imposed pursuant to this section, other than under subsection (7).

(11) An application under subsection (10) may be supported by affidavit.

(12) In determining an appeal under subsection (10), the Judge shall consider the reasonableness of the conditions in the circumstances of the case, and may vary or revoke any condition of the bail if satisfied that the variation or revocation (as the case may be) would not impair investigation of the offence.

(13) In subsection (10) “divisional commander” means—

- (a) in respect of a parish which constitutes a single police division, the officer designated by the Commissioner of Police to be the divisional commander in that parish for the purposes of this Act; or
- (b) in respect of a police division of a parish which comprises two or more police divisions, the officer designated by the Commissioner of Police to be the divisional commander in that division for the purposes of this Act.

6.—(1) A defendant who is charged with an offence that is punishable with imprisonment—

Grant of bail after charge but prior to conviction.

- (a) is entitled to be granted bail by the deciding official, unless the deciding official is satisfied that there is sufficient cause for holding the defendant in custody; and
- (b) shall not be held in custody for longer than a period of forty-eight hours without the question of bail being considered by a deciding official who is neither the arresting officer nor an officer involved in the investigation of the offence.

(2) Subject to section 7(5), bail shall be granted to a defendant who is charged with an offence that is not punishable with imprisonment, and the defendant shall not be held in custody for longer than a period of forty-eight hours without the question of bail being considered by a deciding official who is neither the arresting officer nor an officer involved in the investigation of the offence.

(3) In the case of a defendant who is charged with an offence listed in Part I of the Second Schedule, the question of bail may be considered only by a Judge.

Second Schedule, Part 1.

7.—(1) Where the offence or one of the offences in relation to which the defendant is charged or convicted is punishable with imprisonment, bail may be denied to the defendant in any of the following circumstances—

Circumstances where bail may be denied.

- (a) the deciding official is satisfied that there are grounds for believing that the defendant, if released on bail, would—

- (i) fail to surrender to custody;

- (ii) commit an offence while on bail; or
 - (iii) interfere with witnesses or otherwise obstruct the course of justice, whether in relation to himself or any other person;
 - (b) if it is the first time that the question of the grant of bail to the defendant in respect of the offence is being considered by any deciding official, and the deciding official concerned is satisfied that it has not been practicable to obtain sufficient information for the purpose of taking the decisions required by this section for want of time since the institution of the proceedings against the defendant;
 - (c) the defendant's case is adjourned for inquiries, or a report, and it appears to the deciding official that it would be impracticable to complete the inquiries or make the report (as the case may be) without keeping the defendant in custody;
 - (d) the defendant, having been released on bail in or in connection with proceedings for the offence, is arrested for an offence under section 14 (absconding by person released on bail);
 - (e) the defendant is charged with an offence alleged to have been committed while the defendant is released on bail;
 - (f) the defendant is in custody in pursuance of the sentence of a court or any authority acting under the Defence Act.
- (2) If—
- (a) the offence is murder and—
 - (i) self-defence does not arise on the prosecution's case; or
 - (ii) the circumstances fall within section 2(1)(a) to (f) of the Offences Against the Person Act or, if the defendant is convicted thereof, section 3(1A) of that Act would apply to the defendant; or

- (b) the offence is murder committed within—
- (i) a zone of special operations under the Law Reform (Zones of Special Operations) (Special Security and Community Development Measures) Act, 2017;
 - (ii) any area in respect of which a state of public emergency is in force under the Emergency Powers Act; or
 - (iii) any area within which a cordon is established, or a curfew is imposed, under section 50B of the Constabulary Force Act,

and the deciding official is satisfied that the conviction of the defendant is likely, having regard to the strength of the evidence that the defendant committed the offence or offences concerned, then those circumstances may be treated by the deciding official as sufficient grounds for keeping the defendant in custody.

(3) In deciding whether or not any of the circumstances specified in subsection (1)(a) exist in relation to any defendant, the deciding official shall take into account—

- (a) the nature and seriousness of the offence;
- (b) the need for preserving public order and the likelihood of the threat to public order should the defendant be released on bail;
- (c) the need for preventing crime and the likelihood that the defendant will commit an offence while released on bail;
- (d) the prevalence of offences of that type in the community or the wider society;
- (e) the defendant's character, antecedents, association and community ties;
- (f) the defendant's record with regard to the fulfilment of the defendant's obligations under previous grants of bail;

- (g) except in the case of a defendant whose case is adjourned for inquiries or a report, the strength of the evidence that the defendant committed the offence or failed to surrender to custody;
- (h) whether the defendant has been convicted on any previous occasion of an offence punishable with imprisonment;
- (i) whether—
 - (i) the defendant is in the same household or community as any victim of the offence, or any witness to the offence (whether or not the witness has given or will give evidence in relation to the offence); and
 - (ii) the sense of peace and security among members of any household or community or the wider society will be undermined or jeopardised by the release of the defendant on bail;
- (j) any evidence—
 - (i) that a firearm was used in the commission of the offence; and
 - (ii) that the defendant came into possession of the firearm unlawfully, or that the firearm is a prohibited weapon as defined in section 2 of the Firearms (Prohibition, Restriction and Regulation) Act;
- (k) the defendant's mental health profile, and in particular whether the defendant's mental state renders it likely that danger is posed to any person; and
- (l) any other factors that appear to be relevant.

(4) Bail may be denied to a defendant who is charged with or convicted of an offence punishable with imprisonment if the deciding official is satisfied that the defendant should be kept in custody for the defendant's protection or, where the defendant is a child, for the defendant's welfare.

(5) Bail may be denied to a defendant in relation to an offence that is not punishable with imprisonment if—

- (a) it appears to the deciding official that, having been previously granted bail in any proceedings, the defendant has failed to surrender to custody and there are reasonable grounds for believing that, in view of that failure, the defendant, if released on bail, would fail to surrender to custody;
- (b) the deciding official is satisfied that the defendant should be kept in custody for the defendant's protection or, if the defendant is a child, for the defendant's welfare;
- (c) the defendant is in custody pursuant to a sentence of a court or any authority acting under the Defence Act; or
- (d) having been released on bail in or in connection with proceedings for the offence, the defendant is arrested for an offence under section 14 (absconding while released on bail).

(6) Where the matter referred to in subsection (3)(h) (previous conviction) is taken into account in relation to a defendant and a Judge is the deciding official, the offence in respect of which the question of bail relates shall be tried before a different Judge, if reasonably practicable having regard to the administrative arrangements in respect of the court concerned.

(7) For the purposes of this section—

- (a) references to previous grants of bail include a reference to bail granted before the date of commencement of this Act;
- (b) in the case of a defendant who is a child, references to the defendant's being kept in custody, or being in custody, include being kept in a place of safety, juvenile correctional centre, or juvenile remand centre, under the Child Care and Protection Act; and
- (c) the question whether an offence is punishable with imprisonment shall be determined without regard to any enactment prohibiting or restricting the imprisonment of child offenders or first offenders.

Conditions of
bail.

8.—(1) Where a defendant who is charged with or convicted of an offence is granted bail, any one or more of the conditions specified in subsections (3) and (4) may be imposed if it appears to the deciding official that it is necessary to do so—

- (a) for the purpose of preventing the occurrence of any event referred to in section 7(1)(a); or
- (b) to enable inquiries or a report to be made into the defendant's physical or mental condition.

(2) Subsection (1) shall also apply to any decision whether to vary the conditions of bail.

(3) The deciding official may require a defendant, to whom bail is granted, to provide at the defendant's option and as a condition for bail before the defendant's release—

- (a) a surety to secure the defendant's surrender to custody; or
- (b) a payment of a bond in such amount as may be specified.

(4) The deciding official may require a defendant to whom bail is granted to do all or any one or more of the following—

- (a) inform the deciding official if the defendant intends to leave Jamaica;
- (b) report at specified times and dates to a police station;
- (c) comply with such other conditions as appear to the deciding official to be necessary.

(5) The conditions referred to in subsection (4)(c) may, where the deciding official is a court, include—

- (a) the surrender of the defendant's travel documents to the court having jurisdiction in respect of the offence;
- (b) the imposition of a curfew, in respect of a defendant to whom bail is granted, between the hours specified by the deciding official, requiring the defendant to remain within a specified locality during the hours so specified;

- (c) the wearing by the defendant of an electronic tracking device to allow for the monitoring of the movements of the defendant, being a device in accordance with such specifications and characteristics as shall be prescribed.

9.—(1) A defendant who is granted bail shall surrender to custody. General provisions relating to bail.
 (2) Where a deciding official has granted bail, the deciding official may, on application by—

- (a) the defendant to whom such bail is granted; or
- (b) the prosecution or a constable,

vary the conditions of such bail or deny the application.

(3) Where a defendant is denied bail in relation to the offence concerned, the defendant may make a new application for bail at any subsequent hearing in the proceedings for the offence, on the grounds that—

- (a) there has been a change in circumstances affecting the matter since the previous application for bail; or
- (b) there are facts applicable to the matter which were not available to the deciding official at the time when the decision was made,

and those circumstances or facts (as the case may be) are relevant to the question of the grant of bail to the defendant.

(4) Bail granted to a defendant who has been charged with or convicted of an offence shall be revoked by a court if—

- (a) the defendant fails to surrender to custody;
- (b) the court is satisfied that the defendant has absconded;
- (c) the court is satisfied that the defendant has breached a condition of the bail;
- (d) the court is satisfied that there are reasonable grounds for believing that the defendant committed an offence while on bail; or

- (e) the revocation is otherwise justifiable under any provision of section 7,

unless the court is satisfied that the defendant has provided a reasonable excuse why bail should not be revoked under this subsection.

Recording
and giving
information
on decision
concerning
bail.

10.—(1) Subject to subsection (2), where a deciding official—

- (a) grants bail or refuses bail;
- (b) appoints a time or place for a defendant who is granted bail to surrender to custody;
- (c) imposes or varies any condition in respect of bail; or
- (d) revokes bail,

that deciding official shall, in the prescribed form, make a record of the decision and shall cause a copy of the record of the decision to be given to—

- (i) the defendant; and
- (ii) the prosecution or, in the case of a defendant who has not yet been charged, to the police,

as soon as practicable after the record is made.

(2) Where bail is granted to a defendant by endorsing a warrant of arrest, the constable who released the defendant on bail shall make the record required by subsection (1) instead of the Judge or Justice of the Peace (as the case may be) who issued the warrant.

(3) Where a deciding official—

- (a) refuses bail;
- (b) imposes conditions in granting bail;
- (c) varies any conditions of bail; or
- (d) revokes bail,

the reasons for the decision shall be given in accordance with subsection (4).

(4) A deciding official who is required under subsection (3) to give reasons for a decision, shall note those reasons in the prescribed record and shall cause a copy of that note to be served on the prosecution and on the defendant concerned, or on the defendant's representative, within forty-eight hours after the decision is made.

(5) Where a decision referred to in subsection (3) is made in respect of a defendant who is not represented by an attorney-at-law, the deciding official shall inform the defendant of the procedure for review under section 11 or the right of appeal conferred by section 12, as the case may be.

11.—(1) A decision by a constable or a Justice of the Peace on the matter of bail to a defendant shall be reviewed by a Judge of the court having jurisdiction to try the offence concerned—

Review of
bail decisions.

- (a) on the defendant's first appearance in court in relation to the offence;
- (b) in the case of a refusal to grant bail or a decision to impose any condition in granting bail, on an application by the defendant on any ground specified in subsection (2);
- (c) in the case of a decision to grant bail or the failure to impose a particular condition in granting bail, on an application by the prosecution on any ground specified in subsection (2).

(2) The grounds referred to in subsection (1) are—

- (a) there has been a change in circumstances affecting the matter since the previous decision in respect of bail; or
- (b) there are facts applicable to the matter which were not available to the deciding official at the time when the decision was made.

(3) A Judge of the court concerned shall, at least once every two weeks, carry out a review of cases involving defendants who were granted bail, in relation to offences to be tried before that court, but

who were unable to take up such bail, and for the purposes of this subsection a list of those defendants shall be supplied to the court on Monday of each week, in respect of the preceding week, by—

- (a) in the case of defendants held in a lock-up, the police officer in charge of the lock-up;
- (b) in the case of defendants held in a correctional institution, the individual in charge of the institution.

(4) On a review under this section, the Judge—

- (a) may affirm the decision reviewed, grant or refuse bail to the defendant, impose conditions on bail granted to the defendant, or remove or vary any condition of bail imposed on the defendant;
- (b) in the case of a review under subsection (1), may revoke bail granted to the defendant; or
- (c) in any case where section 5(4) applies, shall make such order as the court considers appropriate.

(5) In subsection (3), “correctional institution” has the meaning assigned to it in section 2 of the Corrections Act.

Appeal from
decision of
Judge.

12.—(1) The defendant concerned may, in accordance with any applicable rules of court, appeal to—

- (a) a Judge of the Supreme Court in Chambers, in respect of a decision made by a Judge of the Parish Court—
 - (i) and referred to in section 5(7)(a) or 10(3); or
 - (ii) upon a review conducted under section 11;
- (b) a Judge of the Court of Appeal in Chambers, in respect of a decision made by a Judge of the Supreme Court—
 - (i) and referred to in section 10(3); or
 - (ii) upon a review conducted under section 11.

(2) Where bail is granted to a defendant by a Judge of the Parish Court or a Judge of the Supreme Court pursuant to this Act, the

prosecution may, in the manner set out in subsection (3), appeal to a Judge of the Court of Appeal in Chambers, in respect of the decision.

(3) Where the prosecution intends to appeal a decision to grant bail to a defendant, the prosecution shall—

- (a) at the conclusion of the proceedings in which the decision was communicated, and before the defendant's release from custody, give to the Judge of the Parish Court or Judge of the Supreme Court, as the case may be, oral notice of that intention; and
- (b) within seventy-two hours after the conclusion of the proceedings referred to in paragraph (a), give the Judge of the Parish Court or Judge of the Supreme Court (as the case may be) and the defendant a written notice of the appeal in the form set out in the Third Schedule, setting out the reasons therefor.

Third
Schedule.

(4) Subject to subsection (5), upon receipt of the oral notice referred to in subsection (3)(a), the Judge shall remand the defendant in custody until the appeal is determined.

(5) Where the prosecution fails to file a written notice of appeal in accordance with subsection (3)(b), the grant of bail shall take effect immediately on the expiration of the period of seventy-two hours allowed under subsection (3)(b) for the filing of the notice of appeal.

(6) The hearing of an appeal under this section shall be commenced within one hundred and twenty hours (excluding Saturdays, Sundays and public general holidays), or such longer period as the Judge in Chambers may in any particular case consider appropriate, after oral notice is given under subsection (3)(a).

(7) On an appeal under this section, the Judge in Chambers may affirm the decision that is the subject of the appeal, or grant or refuse bail to the defendant, or vary or remove any condition of bail imposed on the defendant.

(8) For the purposes of subsection (7), the Judge in Chambers may direct the defendant to appear at any time and place which could

have been directed by the deciding official, and the recognizance of any surety provided in respect of the defendant shall be conditioned accordingly.

Bail after conviction. Second Schedule, Part II.

13.—(1) A defendant who—

- (a) is convicted of an offence other than an offence listed in Part II of the Second Schedule;
- (b) was out of custody on bail immediately prior to the conviction; and
- (c) appeals against the conviction,

may apply to the Judge before whom the defendant was convicted, or to a Judge of the Court of Appeal, for bail pending the determination of the appeal.

(2) On an appeal under subsection (1), the Judge may grant the application if satisfied that exceptional circumstances so warrant, and impose such conditions on the grant of bail as the Judge considers appropriate.

Absconding by person released on bail.

14.—(1) A defendant who is released on bail commits an offence if that defendant—

- (a) fails to surrender to custody; or
- (b) having reasonable excuse for failing to surrender to custody, fails to surrender to custody as soon as possible after the time originally appointed for the defendant to surrender to custody.

(2) In proceedings for an offence under subsection (1)—

- (a) it shall be a defence to a charge under subsection (1)(a) that the defendant has reasonable excuse for failing to surrender to custody; and
- (b) a document purporting to be a copy of any part of the prescribed record that relates to the time and place for the defendant to surrender to custody, and duly certified to be a

true copy of that part of the prescribed record, shall be evidence of the time and place appointed for the defendant to surrender to custody.

(3) In subsection (2), “duly certified” means certified by—

- (a) where the deciding official is a Judge of the Parish Court, the Clerk or Deputy Clerk of the Court;
- (b) where the deciding official is a Judge of the Supreme Court, the Registrar or Deputy Registrar of the Supreme Court;
- (c) where the deciding official is a constable, by that constable or the constable in charge of the police station from which the defendant was released on bail;
- (d) where the deciding official is a Justice of the Peace, that Justice;
- (e) where the deciding official is a Judge of the Court of Appeal, the Registrar or Deputy Registrar of the Court of Appeal.

(4) A person who commits an offence under subsection (1) shall be liable, on—

- (a) summary conviction before a Parish Court, to imprisonment for a term not exceeding five years; or
- (b) conviction before a Circuit Court, to imprisonment for a term not exceeding seven years,

and if a sentence of imprisonment is imposed on the defendant in respect of the offence in relation to which the defendant was released on bail, service of the sentence for the offence under subsection (1) shall commence consecutively after service of the first- mentioned sentence.

15.—(1) A court may issue a warrant for the arrest of a defendant who—

- (a) having been released on bail, fails to surrender to custody; or
- (b) having surrendered to custody after being released on bail, absconds at any time before the conclusion of the proceedings for the offence concerned.

Liability to arrest for absconding, breaching conditions of bail, *etc.*

(2) Notwithstanding subsection (1), a defendant who is released on bail may be arrested without warrant by a constable if—

- (a) the constable has reasonable grounds for—
 - (i) believing that the defendant is not likely to surrender to custody;
 - (ii) believing that the defendant is likely to breach any of the conditions of the defendant's bail; or
 - (iii) suspecting that the defendant has breached a condition of the defendant's bail or committed an offence while released on bail; or
- (b) in a case where the defendant was released on bail with a surety, the surety notifies the constable in writing that—
 - (i) the defendant is unlikely to surrender to custody; and
 - (ii) for that reason, the surety wishes to be relieved of the obligations as surety.

(3) A constable who arrests a defendant pursuant to subsection (2) shall cause the defendant to be brought before a court as soon as practicable but in any event no later than whichever is the sooner of—

- (a) forty-eight hours after the arrest; or
- (b) the next sitting of the court applicable under subsection (4).

(4) Where a Judge of the court before which a defendant is brought under subsection (3) is of the opinion that the defendant—

- (a) is not likely to surrender to custody;
- (b) has committed or was about to commit another offence; or
- (c) has breached or is likely to breach any condition of the defendant's bail,

the Judge may revoke the grant of bail and remand the defendant in custody or commit the defendant to custody (as the case may require).

16.—(1) This section applies where a defendant is granted bail on condition that surety is provided for the purpose of securing the defendant's surrender to custody. Bail with surety.

(2) The persons listed in Part I of the Fourth Schedule shall be exempt from acting as a surety under this Act. Fourth Schedule, Part I.

(3) In considering the suitability of a proposed surety, regard shall be had to such factors as the deciding official thinks relevant, including the proposed surety's—

- (a) profession, occupation, trade or business;
- (b) character and previous convictions (if any);
- (c) proximity, whether of kinship, place of residence or otherwise, to the defendant; and
- (d) capacity to supervise the conduct of the defendant and to ensure the defendant's appearance in court where required,

and the deciding official shall not refuse a proposed surety unless the proposed surety is exempt under subsection (2) or is, in the deciding official's opinion, otherwise unsuitable for the purpose.

(4) The surety shall be required to make a declaration in the form set out in Part II of the Fourth Schedule, and shall have a duty to ensure that the defendant adheres to the conditions of the defendant's bail and appears in court when required. Fourth Schedule, Part II.

(5) A declaration in the form set out in Part III of the Fourth Schedule shall be made by a Justice of the Peace, a member of the Jamaica Constabulary Force not below the rank of sergeant, a minister of religion, or a principal of an educational institution other than a pre-primary school, as to the declarant's knowledge of the surety's identity and good character. Fourth Schedule, Part III.

(6) A recognizance of the surety in accordance with the requirements of subsections (4) and (5) and in the form set out in Part IV of the Fourth Schedule may be entered into before such person, or Fourth Schedule, Part IV.

description of person, as the deciding official may in the prescribed record specify or, if no such specification is made—

- (a) where the deciding official is a constable, a Justice of the Peace or a Judge of the Parish Court, before any Judge of the Parish Court or Clerk of a Parish Court;
- (b) where the deciding official is a Judge of the Supreme Court or Court of Appeal—
 - (i) before any of the persons specified in paragraph (a); or
 - (ii) where rules of court otherwise provide, before such other person as may be so otherwise provided in the rules.

(7) Where a surety seeks to enter into a recognizance of the surety before any person in accordance with subsection (6) but that person declines to take the recognizance because the person is not satisfied as to the surety's suitability, the surety may apply to—

- (a) the deciding official who fixed the amount of the recognizance; or
- (b) the Parish Court for the parish in which the surety resides, for that deciding official or court (as the case may be) to take the recognizance and the deciding official shall, if satisfied as to the surety's suitability, take the recognizance.

(8) Where, pursuant to subsection (7), a recognizance is entered into otherwise than before the deciding official that fixed the amount of the recognizance, the recognizance shall have full force and effect as if it had been entered into before that deciding official.

(9) Where a deciding official grants bail to a defendant but is unable to release the defendant because no surety or no suitable surety is available, the deciding official—

- (a) shall fix the amount in which the surety is to be bound, and subsections (6) and (7) shall apply for the purpose of enabling the recognizance of the surety to be entered into subsequently; and

- (b) may reduce the amount fixed under paragraph (a), for the purpose of enabling the release of the defendant on bail.

(10) A person who, in any declaration required under this section, makes a statement which the person knows to be false in any material particular commits an offence and shall be liable on summary conviction therefor before a Parish Court to a fine not exceeding three million dollars or to imprisonment for a term not exceeding three years, or to both such fine and imprisonment.

(11) Notwithstanding the provisions of this section, the deciding official may permit a defendant to provide surety for himself if—

- (a) the defendant provides proof of the requisite assets and—
 - (i) has been offered bail but is, within such period as the deciding official may consider reasonable having regard to the nature of the offence concerned, unable to provide a suitable person to act as surety on the defendant's behalf; or
 - (ii) is not likely to be sentenced to imprisonment on conviction for the offence; and
- (b) the deciding official is satisfied that the defendant is not likely to abscond if released on bail, commit an offence while on bail, or breach any condition of bail.

17.—(1) Where bail is granted to a defendant and a surety has provided security for the purpose of securing the defendant's surrender to custody, and the defendant—

Forfeiture of security or recognizances.

- (a) fails to surrender to custody; or
- (b) breaches any other condition of the defendant's bail,

the court having jurisdiction in respect of the offence concerned may order the forfeiture of any amount up to the full amount of the security.

(2) Where a court orders the forfeiture of any security pursuant to subsection (1), the court may declare the portion of the monetary value of that security that is to be forfeited (which may be any amount

up to the full value of the security as the court thinks fit) and shall order that the remainder (if any) be paid over to the person entitled thereto.

(3) Security which has been ordered to be forfeited under subsection (1) shall, to the extent of the amount ordered to be forfeited—

- (a) where it consists of money, be accounted for and paid in the same manner as a fine imposed by the court would be;
- (b) where it does not consist of money, be enforced by such Parish Court as may be specified in the order.

(4) This section shall have effect in addition to any other provisions in law relating to the enforcement of recognizances entered into in criminal proceedings.

Release of
surety or
refund of
payment.

18.—(1) In any of the following circumstances, a surety shall be released from the obligations under the recognizance entered into by that surety—

- (a) where a court grants such release, on an application made in accordance with subsection (2);
- (b) where a *nolle prosequi* is entered in relation to the defendant in respect of whom the surety was provided;
- (c) where the matter against the defendant in respect of whom the surety is provided is dismissed and a certificate of dismissal is issued by the court;
- (d) where the defendant concerned is acquitted or convicted,

and the court concerned shall issue to the surety a release in the form set out in Part V of the Fourth Schedule.

Fourth
Schedule,
Part V.

(2) An application made by a surety for release from the obligations under a recognizance shall be in writing to the court having jurisdiction to try the offence in relation to which the defendant is released on bail, and the surety may attend before that court for the hearing of the application.

(3) Where a surety is released in any of the circumstances specified in subsection (1), any amount paid by the surety pursuant to

section 8(3)(b) shall be refunded, but if a fine is imposed on conviction of the defendant, that amount may, with the surety's consent, be applied toward the payment of the fine.

19.—(1) No person shall indemnify, or offer or agree to indemnify, a surety against the possibility of loss arising from the absconding of the defendant, and a person who contravenes this subsection commits an offence. Prohibition of agreement to indemnify surety.

(2) An offence under subsection (1) may be committed whether—

- (a) the offer or agreement is made before or after the person to be indemnified becomes a surety;
- (b) the person to be indemnified becomes a surety or not; or
- (c) the offer or agreement contemplates compensation in money or money's worth.

(3) A person who commits an offence under subsection (1) shall be liable, on summary conviction therefor before a Parish Court, to a fine not exceeding one million dollars, or to imprisonment for a term not exceeding one year.

20.—(1) A surety shall not, without obtaining the prior approval of a court, offer as security for acting as surety for a defendant, property that constitutes security for the surety of another defendant. Property not to be used concurrently as consideration for surety.

(2) A surety who knowingly contravenes subsection (1) commits an offence and shall be liable on summary conviction therefor before a Parish Court, to a fine not exceeding one million dollars, or to imprisonment for a term not exceeding one year.

(3) In deciding whether to give approval for the purposes of subsection (1), the court shall have regard to the sufficiency of the value of the property to cover the securities concerned.

21.—(1) The Minister may by order published in the *Gazette* declare any facility to be a bail centre for the purposes of the attendance of child offenders released on bail. Declaration of bail centre.

(2) A facility that is, immediately prior to the commencement of this Act, a bail centre under the Bail Act, 2000, shall be deemed to be a bail centre declared under subsection (1).

Power to
make
regulations,
etc.

22.—(1) The Minister may, subject to affirmative resolution, make regulations generally for giving effect to the provisions and purposes of this Act.

(2) The Minister may by order subject to affirmative resolution—

- (a) amend any of the Schedules;
- (b) amend any monetary penalty imposed by this Act.

Repeal.

23. The Bail Act, 2000, is repealed.

Amendments
to other
enactments.

24.—(1) The Constabulary Force Act is amended—

- (a) in section 24 by deleting the words “on a charge of murder, treason or treason felony.” and substituting therefor the following—

“on a charge for—

- (a) murder, treason or treason felony; or
- (b) any offence under the Firearms (Prohibition, Restriction and Regulation) Act involving the unlawful manufacture of, dealing in, acquisition of, possession of, or use of, a prohibited weapon as defined in section 2 of that Act.”;
- (b) in section 25 by deleting the words “after being so required;” and
- (c) in section 50F(3)(a) and (b) by deleting the word “twenty-four” and substituting therefor in each case the word “forty-eight”.

(2) Section 67 of the Judicature (Parish Courts) Act is amended by inserting next after the words “witness or prisoner,” the words “any issue concerning the matter of bail,”.

(3) The Justices of the Peace Jurisdiction Act is amended—

- (a) in section 32 by inserting next after the words “according to law”, wherever they appear, in each case the words “(including determining the question of bail in accordance with the Bail Act)”; and
- (b) in section 50 by inserting next after the word “bail” the words “in accordance with the Bail Act”.

(4) Section 34 of the Larceny Act is amended by deleting the words “in that behalf, shall be guilty of felony, and on conviction thereof liable to imprisonment with hard labour for any term not exceeding seven years.” and substituting therefor the following—

“in that behalf, commits a felony and shall be liable on conviction therefor—

- (a) before a Parish Court to imprisonment for a term not exceeding five years; or
- (b) before a Circuit Court, to imprisonment for a term not exceeding seven years.”.

(5) The Towns and Communities Act is amended, in sections 19, 20, 24 and 25, in each case by inserting next after the word “bail” the words “in accordance with the Bail Act”.



Notice of Appeal by Defendant Against Condition of Bail

THE BAILACT

(Section 5)

In the _____ Parish Court

BAILAPPEAL NO. /20

BETWEEN: APPELLANT

AND: RESPONDENT

TAKE NOTICE that the Appellant appeals the decision of _____

_____ [insert name and office of deciding official] made on _____ [insert date of decision] to impose the following condition(s) on the grant of bail to the Appellant: [describe condition(s)].

The grant of bail relates to the following offence(s): [specify the details of the offence (where applicable)].

The grounds of the appeal are:

Notice:

This application will be heard by a Judge of the Parish Court in Chambers on the _____ day of _____, 20____. If you do not attend this hearing personally or by an attorney-at-law, an order may be made in your absence.

Notice of this application is being given to the following persons:

The respondent(s)

Dated the _____ day of _____, 20____.

Signature of Appellant _____

SECOND SCHEDULE

PART I (Sections 5 and 6)

*Offences in Respect of Which Bail May Only be
Granted by a Judge*

1. Murder.
2. Any offence under sections 2, 3 or 4 of the Treason Felony Act.
3. Any offence under section 3 of the Malicious Injuries to Property Act (arson of a dwelling house).
4. Any offence under section 13 (praedial larceny) or section 42A (extortion) of the Larceny Act.
5. Any of the following offences under the Offences Against the Person Act—
 - (a) section 8 (conspiracy or soliciting to commit murder);
 - (b) section 13 (administering poison or wounding with intent to murder);
 - (c) section 14 (destroying or damaging building with intent to murder);
 - (d) section 15 (setting fire to ship, etc. with intent to murder);
 - (e) section 16 (attempting to administer poison, *etc.* with intent to murder);
 - (f) section 17 (by other means attempting to commit murder);
 - (g) section 20 (shooting or attempting to shoot or wound with intent to do grievous bodily harm or with intent to resist or prevent the lawful apprehension or detainer of any person; or wounding with intent, using a firearm);
 - (h) section 69 (child stealing);
 - (i) section 70 (kidnapping).
6. Any of the following offences under the Dangerous Drugs Act—
 - (a) section 3 (import and export of raw opium and coca leaves);

- (b) section 5 (cultivation of opium or coca leaves);
- (c) section 6 (import or export of prepared opium);
- (d) section 7 (manufacturing, selling, using, etc. prepared opium);
- (e) section 7A (import or export of ganja);
- (f) section 7B (cultivation, selling or dealing in or transporting ganja);
- (g) section 8 (import or export of cocaine, or other applicable drug);
- (h) section 8A (cultivating, selling or dealing in or transporting cocaine, or other applicable drug);
- (i) section 9 (manufacture and sale of cocaine, or other applicable drug);
- (j) section 11 (trade, *etc.*, in new drugs);
- (k) section 21A (using the postal services for drugs).

7. Any offence under section 4 of the Trafficking in Persons (Prevention, Suppression and Punishment) Act.

8. Any offence under section 10 of the Child Care and Protection Act (trafficking of children).

9. Any of the following offences under the Sexual Offences Act—

- (a) section 3 (rape);
- (b) section 4 (grievous sexual assault);
- (c) section 5 (marital rape);
- (d) section 7 (incest);
- (e) section 8 (sexual touching);
- (f) section 9 (sexual grooming of a child);
- (g) section 10 (sexual intercourse with person under sixteen);
- (h) section 11 (householder, *etc.*, inducing or encouraging violation of a child under sixteen);

- (i) section 3 (indecent assault);
- (j) section 15 (abduction of child under sixteen);
- (k) section 18 (procuration);
- (l) section 19 (procuring violation of person by threats or fraud, or administering drugs);
- (m) section 20 (abduction of child with intent to have sexual intercourse);
- (n) section 21 (unlawful detention with intent to have sexual intercourse).

10. Perverting the course of justice.

11. A terrorism offence, as defined by section 2 of the Terrorism Prevention Act.

12. Any offence under section 3 or 4 of the Child Pornography (Prevention) Act.

13. Any offence under section 4, 5, 6, 10 or 11 of the Malicious Injuries to Property Act.

14. Any offence under the Law Reform (Fraudulent Transactions) (Special Provisions) Act.

15. Any of the following offences under the Criminal Justice (Suppression of Criminal Organisations) Act—

- (a) section 3 (forming or establishing a criminal organisation);
- (b) section 4 (recruitment of a child to criminal organisation);
- (c) section 6 (being part of, participating in, or facilitating, serious offence by a criminal organisation);
- (d) section 13 (taking retaliatory action).

16. An offence under section 21 of the Law Reform (Zones of Special Operations) (Special Security and Community Development Measures) Act (failure to disclose identity, etc., on request).

17. An offence under section 5(4) of the Unlawful Possession of Property Act.

*Offences for which Application for Bail Shall Not be Made
after Conviction*

1. Murder.
2. Any of the following offences under the Firearms (Prohibition, Restriction and Regulation) Act—
 - (a) section 5 (possession of prohibited weapon);
 - (b) section 6 (stockpiling);
 - (c) section 7 (trafficking in prohibited weapon);
 - (d) section 8 (possession of prohibited weapon with intent to traffic);
 - (e) section 9 (manufacture of prohibited weapon or possession of device therefor);
 - (f) section 10 (dealing in prohibited weapon);
 - (g) section 12 (prohibition on diversion);
 - (h) section 14 (use or possession of firearm or imitation firearm in certain circumstances);
 - (i) section 15 (possession of firearm or ammunition with intent to injure or cause damage).
3. Any of the following offences under the Criminal Justice (Suppression of Criminal Organisations) Act—
 - (a) section 3 (forming or establishing a criminal organisation);
 - (b) section 4 (recruitment of child to criminal organisation);
 - (c) section 6 (being part of, participating in, or facilitating, serious offence by a criminal organisation);
 - (d) section 13 (taking retaliatory action).
4. An offence under section 21 of the Law Reform (Zones of Special Operations) (Special Security and Community Development Measures) Act (failure to disclose identity, etc., on request).
5. Any of the following offences under the Law Reform (Fraudulent Transactions) (Special Provisions) Act—
 - (a) section 10 (knowingly obtaining, possessing, transmitting, distributing, etc., identity information);
 - (b) section 11 (obtaining a benefit by menace).

THIRD SCHEDULE (Section 12(3))



Notice of Appeal by Prosecution against Grant of Bail

THE BAILACT

(Section 12)

IN THE COURT OF APPEAL OF JAMAICA

BAILAPPEAL NO. /20

BETWEEN THE DIRECTOR OF PUBLIC PROSECUTIONS
APPELLANT

AND

DEFENDANT

TAKE NOTICE that the Appellant/Crown appeals the decision of
H...Honour/Justice

.....[insert name] Judge of theCourt for the
parish of to grant bail, given on
the day of

, 20 . In the matter of

.....
.....
.....

*[set out name of accused person(s), charge and information
number(s)]*

and in which oral notice of appeal was given on the day of , 20

The details of the order made in relation to bail are as follows

\$.....bail with one or sureties

To report at thePolice Station every

..... between the hours of

.....am/pm toam/pm.

Other Conditions *(please tick)*

- Wearing of electronic tracking device
- Stop order at airport and other ports of entry and departure
- Surrender travel documents
- Curfew order
- not to interfere with complainant and witnesses
- to reside atin the parish of
..... with.....
- Other (please specify)

The ground(s) on which it is contended that the decision should be varied or revoked is/are that there are substantial grounds for believing that the Defendant, if released on bail would:—*(please tick)*

- fail to surrender to custody;
- commit an offence while on bail;
- interfere with witnesses or otherwise obstruct the course of justice, whether in relation to himself or any other person;
- the defendant is charged with an offence alleged to have been committed while he was released on bail;
- Other (please specify)

The learned Judge exercised his/her discretion improperly when one considers *(please tick)*

- the likelihood of conviction, having regard to the strength of the prosecutions' case
- the nature and seriousness of the offence
- the risk of the defendant absconding
- the risk of the defendant interfering with the course of justice
- the defendant has been convicted on a previous occasion for offences which are punishable with imprisonment
- the strength of the Crown's case
- Other (please specify)

.....

NOTICE:

This application will be heard by a Judge in Chambers on the day of, 20.... If you do not attend at this hearing personally or by an attorney-at-law, an order may be made in your absence.

Notice of this application is being given to the following persons:

- The respondent
.....
.....
.....
.....
- The Registrar
Court of Appeal
Public Building West
King Street
Kingston
- The Commissioner of Corrections

DATED the day of, 20

.....
For the DIRECTOR OF PUBLIC PROSECUTIONS

FILED BY the DIRECTOR of PUBLIC PROSECUTIONS, King Street, Kingston, Attorneys-at-Law, for and on behalf of the Appellant herein whose address for service is Public Building West, King Street, in the parish of Kingston. Telephone number (876) 922-6321-5. Telefax (876) 922-4318.

FOURTH SCHEDULE (Sections 16 and 18)

PART I

Persons Exempt from Acting as a Surety

1. Murder.
2. The Governor-General.
3. A member of either House of Parliament.
4. A member of the judiciary.
5. The Attorney-General or a person employed in the post of Legal Officer in the Attorney-General's Department.
6. The Director of Public Prosecutions, a person employed to the post of Legal Officer in the Office of the Director of Public Prosecutions, or a person acting as the prosecution in any criminal matter.
7. A Permanent Secretary.
8. The Chief of Defence Staff.
9. A Justice of the Peace who has considered any issue relating to bail in respect of the defendant concerned.
10. A constable.
11. An attorney-at-law on record for the defendant concerned, in relation to the offence.
12. A person charged jointly with the defendant concerned, or charged with aiding or abetting in the commission of the offence.
13. A person who has a criminal charge pending against that person before any court.
14. A person who is not resident in Jamaica.
15. A person who is entitled to immunity from legal process in Jamaica.

PART III

Declaration as to Surety's Identity and Good Character

Parish.....

I hereby certify that I have been
(name of declarant)

personally acquainted with for a period
(name of surety)

of....., and I hereby attest to the said..... 's
(name of surety)

good character.

I make this declaration conscientiously believing the same to be true and according to the Voluntary Declarations Act, and I am aware that if there is any statement in this declaration which is false in fact which I know or believe to be false or do not believe to be true, I am liable to a fine not exceeding \$1 million dollars or to imprisonment for a term not exceeding 2 years or both.

Tick applicable description of declarant:

- Justice of the Peace
- Member of Jamaica Constabulary Force not below the rank of Sergeant
- Minister of religion
- Principal of educational institution other than a pre-primary school

PART IV

Recognizance of Surety

Before.....in the parish of
(Court or prescribed official)

.....

Take notice that you..... of.....
(insert name of defendant) (insert address of defendant)

..... are bound in the sum of \$
your sureties.....
(insert names of sureties)

of.....
(insert address of sureties)

in the sum of \$ each, to appear at
in the parish of....., on the day of.....,

20....., and, unless you personally make your appearance accordingly, the recognizance entered into by you and your sureties will be forthwith ordered to be forfeited and the amount thereof levied on the property provided as security therefor, and if the security is insufficient each of you may be imprisoned for such period as the court considers just, not exceeding six months.

Dated this day of , 20 .

.....
(Signature of Judge or prescribed official)

PART V

Form of Release of Surety

In the Court

To:
(name of surety)

In the matter of the recognizance entered into by you in the matter of :—

Name of defendant: Case/Plaint/

Information No: in the amount of \$.....,

secured by: (describe property)

on.....(date).

Take note that you are hereby absolutely discharged from liability to pay the aforementioned sum and from responsibility for assuring the adherence of the defendant to the conditions of bail.

.....
Signature of Judge
[Seal of court to be affixed]

Dated this day of , 20 .

MEMORANDUM OF OBJECTS AND REASONS

A decision has been taken to enact legislation to repeal and replace the Bail Act, having regard to the fact that the existing Act was enacted prior to amendments to the fundamental rights and freedoms provisions contained in Chapter III of the Constitution of Jamaica, the need for new provisions to address circumstances peculiar to Jamaica, and the need for greater clarity in certain provisions of the existing Act.

This Bill seeks to give effect to that decision and to effect consequential amendments to other enactments.

MARLENE MALAHOO FORTE
Minister of Legal and Constitutional Affairs.

A BILL

ENTITLED

**AN ACT to Repeal and replace the Bail Act
and to provide for connected matters.**

As introduced by the Minister of Legal and
Constitutional Affairs.

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SECTIONS 24 AND 25 OF THE CONSTABULARY FORCE ACT
WHICH IT IS PROPOSED TO AMEND

24. Where any person shall be in the custody of any Officer, or Sub-Officer of the Force in charge of the Police Station or lock-up without the warrant of a Justice, whether such person shall have been originally apprehended by any such Officer, or Sub-Officer in charge of a Police Station or lock-up, or afterwards delivered into his custody or lodged in any Police Station or lock-up under his care or superintendence, the Officer or Sub-Officer in charge of the Police Station or lock-up shall grant bail to that person in accordance with the Bail Act unless the person is in custody on a charge of murder, treason or treason felony.

25. If any Officer or Sub-Officer in charge of a Police Station or lock-up shall refuse to grant bail to any person in his custody and such person shall so require, it shall be the duty of such Officer or Sub-Officer in charge of the Police Station or lock-up forthwith after being so required, to take or cause to be taken, such person before some Justice conveniently near, for the purpose of having such person dealt with by such Justice according to law; and all recognizances taken before any Justice for the appearance of persons apprehended without warrant shall be taken without fee or reward by any Justice or other person whatever.

SECTION 50F OF THE CONSTABULARY FORCE ACT
WHICH IT IS PROPOSED TO AMEND

50F.—(1) Where the Security Forces are carrying out any operations in any particular locality in relation to which action is taken under section 50B, no person shall be arrested or detained unless the person in charge of such operations is satisfied that there is reasonable ground for the arrest or detention of such person.

... ..

(3) If a Justice of the Peace is satisfied that the detention or arrest 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) such 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 the Parish Court:

... ..

SECTION 67 OF THE JUDICATURE (PARISH COURTS) ACT
WHICH IT IS PROPOSED TO AMEND

67. It shall be lawful for any Judge of the Parish Court to sit in Chambers, and there to make orders as to the mode of trial of persons brought before him charged with any indictable offence, to hear and determine any application for a change of venue from one station to another station in his parish or parishes, for any stay of execution, for a writ of *habeas corpus* to bring up any witness or prisoner, and any application respecting the taxation of costs, and also any unopposed application for probate or administration and also any application that may be properly made *ex parte* and without notice to the other side.

SECTIONS 32 AND 50 OF THE JUSTICES OF THE PEACE
JURISDICTION ACT WHICH IT IS PROPOSED TO AMEND

32. Upon such information and complaint being so laid as aforesaid, the Justice or Justices receiving the same may, if he or they shall think fit, issue his or their summons or warrant respectively as, hereinbefore is directed, to cause the person charged as aforesaid to be and appear before him or them, or any other Justice or Justices for the said parish, to be dealt with according to law; and every such summons (according to Form (17) in the First Schedule) shall be directed to the party so charged in and by such information, and shall state shortly the matter of such information, and shall require the party to whom it is so directed to be and appear at a certain time and place therein mentioned before the Justice who shall issue such summons, or before such other Justice or Justices of the said parish as may then be there, to be dealt with according to law; and every such summons shall be served by a constable or other peace officer upon the person to whom it is so directed, by delivering the same to the party personally, or, if he cannot conveniently be met with, then by leaving the same with some person for him at his last or most usual place of abode; and the constable or other peace officer who shall have served the same in manner aforesaid shall attend at the time and place, and before the Justices in the said summons mentioned, to depose, if necessary, to the service of such summons; and if the person so served shall not be and appear before the Justice or Justices at the time and place mentioned in such summons in obedience to the same, then it shall be lawful for such Justice or Justices to issue his or their warrant (according to Form (18) in the First Schedule), for apprehending the party so summoned, and bringing him before such Justice or Justices, or some other Justice or Justices for the said parish, to be dealt with according to law:

... ..

50. Whenever a Justice shall issue his warrant to compel the attendance of any person to give evidence, the constable or other officer executing such warrant, or otherwise in charge of such person thereunder, shall when required by such person so to do, immediately take him before the Justice issuing such warrant, or before any Judge of the Parish Court or any Justice having the power of two Justices; and it shall be lawful for the Judge of the Parish Court or Justice before whom such person is so taken, in his discretion to admit such person to bail, in such amount as to such Judge of the Parish Court or Justice shall seem proper, conditioned for the appearance of such person at the time and place in the warrant specified, to testify what he shall know concerning the charge or complaint in question.

SECTION 34 OF THE LARCENY ACT WHICH
IT IS PROPOSED TO AMEND

34. Every person who, without lawful authority or excuse, the proof whereof shall lie on the accused, in the name of any other person, acknowledges any recognizance or bail, or any *cognovit actionem*, or judgment, or any deed, or other instrument, before any court, Judge or other person lawfully authorized in that behalf, shall be guilty of felony, and on conviction thereof liable to imprisonment with hard labour for any term not exceeding seven years:

SECTIONS 19 AND 20 OF THE TOWNS AND COMMUNITIES ACT
WHICH IT IS PROPOSED TO AMEND

19. It shall be lawful for any Justice on complaint of any constable or other person, that any house, room, shop, or place in any parish of this Island is a place of common resort for idle and disorderly persons, to order such house, room, shop, or place to be entered by any constable; and it shall be lawful for such constable to take into custody any person or persons gambling in such house, room, or place, and carry him or them before any Justice, who shall hold such person or persons to bail to appear and answer any charge touching such offence that may be brought against him or them; and in default of security, shall commit such person or persons to the common gaol, there to remain until he can be brought the Justices in Petty Sessions for trial.

20. It shall be lawful for any constable to take into custody any idle and disorderly persons who may, at any time, be found assembled in any thoroughfare, street, lane, or public place, or in front, or about, or in the neighborhood of any house, wharf, tavern, or other premises, or in any street or other public place in any city or town in this Island, who, upon being desired by such constable to retire or disperse, and leave the place in which they shall have so assembled, shall refuse or neglect immediately to do so, and carry such persons, or any of

them, before any Justice, who shall hold them, or any of them, to bail, to appear and answer any charge touching such offence that may be brought against them; and in default of security, he shall remand such persons in custody until they can be brought before the Justices in Petty Sessions for trial.

SECTIONS 24 AND 25 OF THE TOWNS AND COMMUNITIES ACT
WHICH IT IS PROPOSED TO AMEND

24. Every person taken into custody in the day time for offences under the provisions of this Act without warrant shall be forthwith taken before some Justice, or, if after the hour of six o'clock in the evening, shall be delivered into the custody of the sergeant or constable in charge of the nearest constabulary station, in order that such person may be secured until he can be brought before a Justice to be dealt with according to law or, shall give bail for his appearance before a Justice.

25. Whenever any person having charge of any carriage or horse, or any other animal, or goods or chattels, shall be taken into the custody of any constable under the provisions of this Act, it shall be lawful for any constable to take charge of such carriage or horse, or such other animal, or goods or chattels and to deposit the same in some place of safe custody until application be made for the same by the owners thereof, or their authorized agents, or until the offender shall be discharged from custody on bail or otherwise; to be delivered to the party entitled to the same, on payment of all expenses incurred by the keep of such carriage or horse, or other animal.