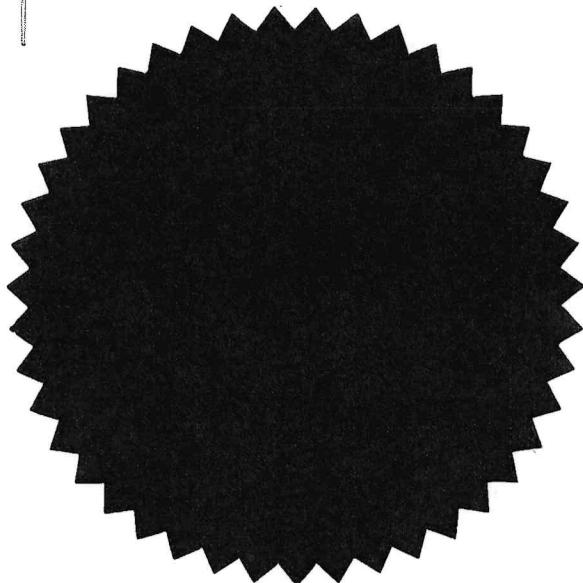


JAMAICA

No. 12 — 2023



I assent,

*P.L. Allen*

*Governor-General.*

14<sup>th</sup> day of November 2023

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

[15<sup>th</sup> day of November 2023]

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:—

1. This Act may be cited as the Bail Act, 2023.

Short title.

2. In this Act—

Interpretation.

“arrested” includes apprehended;

“bail centre” means any facility declared by the Minister, pursuant to section 20, 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 for 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—

- (a) 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; and
- (b) in the case of a constable, shall not be the arresting officer or an officer involved in the investigation of the offence concerned;

“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 in respect 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 this Act, so, however, that in any case where bail is denied, any order made by the Court for the child to be kept in custody shall be in accordance with the Child Care and Protection Act.

(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 shall 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.** Subject to the provisions of this Act, a defendant is entitled to be granted bail by a deciding official pursuant to a power to grant bail conferred on that deciding official under this Act or any other law. Entitlement to bail.

**5.—(1)** The question of bail to a defendant shall be decided in accordance with this Act, by a deciding official— When and by whom the question of bail is to be decided.

- (a) within forty-eight hours after the defendant is arrested, or detained, on reasonable grounds that the defendant has committed an offence listed in Part I of the First Schedule, in any case where such a defendant has not yet been charged because more time is needed to prefer charges; First Schedule, Part I.

First  
Schedule,  
Part II.

- (b) within forty-eight hours after the defendant is taken into custody consequent on being charged with an offence; and
- (c) after the defendant, having been convicted of an offence other than an offence listed in Part II of the First Schedule, in relation to which the defendant was out of custody on bail immediately prior to the conviction, applies for bail pending the determination of an appeal made by the defendant against the conviction or against any sentence of imprisonment imposed in respect of such conviction.
- (2) The deciding official for the purposes of subsection (1)—
- (a) in a case falling within subsection (1)(a), shall be—
- (i) a Justice of the Peace; or
  - (ii) a constable, at or above the rank of Superintendent;
- (b) in a case falling within subsection (1)(b)—
- (i) except as otherwise provided in sub-paragraph (ii), shall be a constable, a Justice of the Peace or a Judge; and
  - (ii) in the case of an offence listed in Part II of the First Schedule, shall be a Judge;
- (c) in a case falling within subsection (1)(c), shall be either the Judge before whom the defendant was convicted or a Judge of the Court of Appeal.
- (3) Where in any case falling within subsection (1)(a)—
- (a) more time than is specified under subsection (1)(a) is required so that an identification parade can be held in relation to the defendant, the defendant shall, instead of the time specified in subsection (1)(a), be brought before the Judge within one hundred and twenty hours after the arrest or detention; or
- (b) an identification parade is required to be held in relation to a defendant but has not been held within the time specified in

First  
Schedule,  
Part II.

paragraph (a), the matter shall, no later than forty-eight hours after the expiration of that time, be referred to the Judge, who shall either—

- (i) specify such further time as shall be allowed for the holding of the identification parade, and upon the expiration of which the defendant shall be brought before the Judge for the question of bail to be determined; or
- (ii) make such other order as the Judge thinks fit, in the circumstances, in the absence of the defendant.

(4) Where a defendant is arrested or detained on reasonable grounds that the defendant has committed an offence, and—

- (a) the offence is not an offence listed in Part I of the First Schedule; and
- (b) the defendant has not been charged with the offence within forty-eight hours after the arrest or detention (as the case may be),

the defendant shall be released unconditionally.

6.—(1) For the purpose of deciding the question of bail in a case falling under—

- (a) section 5(1)(a), the deciding official shall, after considering the matters specified in section 7(3) (a), (b), (c), (d), (e) and (g), either grant bail to the defendant or refuse the grant of bail to the defendant, on the grounds of any of the matters so specified; and
- (b) where bail is not granted to the defendant under paragraph (a), a constable shall bring the defendant before a Judge of a Parish Court within forty-eight hours after the period limited under section 5(1)(a)—
  - (i) for the question of bail to be determined having regard to the matters specified in section 7(3) (a), (b), (c), (d), (e) and (g); and

Considerations  
for deciding  
the question  
of bail.

- (ii) in any case where the Judge of the Parish Court denies bail to the defendant, 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 having regard to the matters specified in section 7(3) (a), (b), (c), (d), (e) and (g).

(2) For the purpose of deciding the question of bail in a case falling under section 5(1)(b)—

- (a) if the offence is not punishable with imprisonment, the deciding official shall grant bail to the defendant, unless—
  - (i) it appears to the deciding official that, having been previously granted bail in any proceedings, the defendant 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;
  - (ii) 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;
  - (iii) the defendant is in custody pursuant to a sentence of a court or any authority acting under the Defence Act; or;
  - (iv) having been released on bail in or in connection with proceedings for the offence, the defendant is arrested for an offence under section 13 (absconding while released on bail);
- (b) if the offence is punishable with imprisonment, the deciding official shall grant bail to the defendant, unless the deciding official is satisfied that there is sufficient cause for holding the

defendant in custody having regard to any of the following matters—

- (i) the deciding official is satisfied that there are grounds for believing that the defendant, if released on bail, would—
  - (A) fail to surrender to custody;
  - (B) commit an offence while on bail; or
  - (C) interfere with witnesses or otherwise obstruct the course of justice, whether in relation to himself or any other person;
- (ii) 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;
- (iii) 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;
- (iv) the defendant, having been released on bail in or in connection with proceedings for the offence, is arrested for an offence under section 13 (absconding by person released on bail);
- (v) the defendant is charged with an offence alleged to have been committed while the defendant is released on bail;
- (vi) the defendant is in custody in pursuance of the sentence of a court or any authority acting under the Defence Act;

- (vii) 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.

(3) In deciding whether or not any of the circumstances specified in subsection (2) (b) (i) 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 in Jamaica;
- (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 of the public, or among members of any household or community, 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) For the purposes of subsections (2) and (3), 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.

(5) 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.

(6) 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.

(7) On an application under section 5(1)(c) (application for bail by convicted defendant), 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.

7.—(1) 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 (2), has elapsed without a charge being preferred against the defendant, the defendant shall be released unconditionally.

Extension of period of release on bail or unconditional release of defendant who has not been charged.

(2) The period of the defendant’s release on bail may be extended for a further period not exceeding six months, on an *inter partes* application supported by affidavit and made before the expiration of the period referred to in subsection (1) 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.

(3) The Judge to whom an application is made under subsection (2) 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 (including how expeditiously 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.

(4) On an application under subsection (2), after considering the matters referred to in subsection (3), 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.

Conditions  
for release on  
bail.

**8.**—(1) A deciding official who grants bail to a defendant referred to in section 5(1)(a) (defendant arrested or detained but not yet charged) may require the defendant to comply with any one or more of the conditions of bail specified in subsection (2) 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.

(2) The conditions referred to in subsection (1) 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.

(3) 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 Second Schedule, appeal against any condition of bail imposed by a deciding official referred to in section 5(2)(a).

Second  
Schedule.

(4) An application under subsection (3) may be supported by affidavit.

(5) In determining an appeal under subsection (3), 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.

(6) In subsection (3) “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.

(7) Where a defendant who is charged with or convicted of an offence is granted bail, any one or more of the conditions specified under subsection (9) or (10) 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 6(2)(b)(i); or
- (b) to enable inquiries or a report to be made into the defendant’s physical or mental condition.

(8) Subsection (7) shall also apply to any decision whether to vary the conditions of bail.

(9) 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.

(10) 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.

(11) The conditions referred to in subsection (10)(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, and the court may give such directions as it considers appropriate to enable the police to monitor compliance with the requirement;
- (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.

(12) A defendant who, without lawful excuse, removes an electronic tracking device or causes or allows—

- (a) the removal of an electronic tracking device; or
- (b) the impairment of any function of an electronic tracking device,

contrary to a requirement imposed on the defendant under subsection (11)(c) commits an offence and shall be liable, upon 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 or to both such fine and imprisonment.

**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 6(2)(b), (3) or (4),

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

(5) An application for a variation under subsection (2) shall be determined, as far as practicable, by the original deciding official, but if that deciding official is, for any reason, not available, the application may be determined by a deciding official of the same category as the original deciding official who was the competent authority to decide the question of bail.

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 form set out in the Third Schedule, 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) every person providing surety, in a case where surety is required as a condition for the grant of bail; and
- (iii) 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) grants or 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, within forty-eight hours after the decision is made, cause a copy of that note to be served on—

- (a) the prosecution;
- (b) the defendant concerned, or on the defendant's representative; and
- (c) if the decision affects the provision of any surety, the person providing the surety.

(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 or before which the defendant first appears (as the case may be)—

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) In relation to offences to be tried before a court, a Judge of that court shall, at least once every two weeks, carry out a review of cases involving defendants who were granted bail, 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 7(1) applies, (unconditional release of defendant arrested or detained but not yet charged), 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 7(4)(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 Fourth Schedule, setting out the reasons therefor.

Fourth  
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, revoke the grant of bail to the defendant, impose conditions on the grant of 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.

Absconding  
by person  
released on  
bail.

**13.—(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.

**14.—(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 (1).

- (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).

Bail with  
surety.

**15.—(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.

(2) The persons listed in Part I of the Fifth 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—
  - (i) supervise the conduct of the defendant, if required under any directions made to the surety by the deciding official; and
  - (ii) 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 Fifth Schedule, and shall have a duty to—

- (a) adhere to the directions imposed on the surety with respect to the conditions of the defendant's bail; and
- (b) ensure that the defendant appears in court when required.

Fifth  
Schedule,  
Part II.

(5) A declaration in the form set out in Part III of the Fifth 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.

Fifth  
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

Fifth  
Schedule,  
Part IV.

IV of the Fifth Schedule may be entered into before such person, or 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.

**16.—(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, in any case where the defendant is a minor and the surety is the parent or guardian of that minor,

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.

**17.**—(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 Fifth Schedule.

(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

Fifth  
Schedule,  
Part V.

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)—

- (a) any amount paid by the surety pursuant to section 8(9)(a) 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; and
- (b) in any case under subsection (1)(a), the court shall immediately notify the defendant of the release and may order that the defendant be taken into custody until the defendant provides other surety to the satisfaction of the court.

**18.**—(1) No person shall indemnify, or offer or agree to indemnify, another person 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.

**19.**—(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 con-  
currently 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.

Declaration  
of bail centre.

**20.**—(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.

(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).

**21.**—(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.

**22.** The Bail Act, 2000, is repealed.

Amendments  
to other  
enactments.

**23.**—(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)”;
- (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”.

## FIRST SCHEDULE (Sections 5(1)(a))

## PART I

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 5(4) of the Unlawful Possession of Property Act.

17. 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
- (i) in certain circumstances);
- (j) section 15 (possession of firearm or ammunition with intent to injure or cause damage).

## PART II

(Section 5(1)(c))

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. 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).

SECOND SCHEDULE (Section 8(3))



*Notice of Appeal by Defendant Against Condition of Bail*

THE BAIL ACT

(Section 8)

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 \_\_\_\_\_

## THIRD SCHEDULE

(Section 10)

## RECORD OF DECISIONS CONCERNING BAIL

*(Tick the appropriate box)*

Name of applicant: .....

Date of birth of applicant: .....

Date of application: .....

Date and time application was heard: .....

Particulars of the office: .....

.....

Decision of deciding official—

- Bail granted
- Bail refused
- Conditions attending bail decision
  - report to a police station at specified times and dates
  - provision of surety
  - payment of a bond
  - requirement not to contact or associate with witnesses
  - inform officer in charge of the nearest police station before travelling overseas or outside of the community
  - other

If the deciding official is a judge—

Name of Judge: .....

Court (Parish, Supreme or Court of Appeal): .....

If the deciding official is a constable—

Name of constable: .....

Rank and identification number: .....

If the deciding official is a Justice of the Peace—

Name of Justice of the Peace: .....

Registration Number: .....

Parish of Registration: .....

.....  
Signature of deciding official

#### REASONS FOR DECISIONS CONCERNING BAIL

Name of applicant: .....

Particulars of the offence(s): .....

1. Where the offence is punishable with imprisonment and where bail is denied, the relevant grounds for denial are—

- It is likely that the applicant would not surrender to custody if released on bail
- It is likely that the applicant would offend again if released on bail
- It is likely that the applicant will interfere with witnesses or otherwise obstruct the course of justice, whether in relation to himself or any other person

In making the decision to deny the application for the grant of bail, the following matters were taken into consideration—

- the nature and seriousness of the offence
- there is a likely threat to public order should the defendant be released on bail
- there is a prevalence of the offences of the type for which the applicant is suspected of committing
- evidence presented of the applicant's character, association and community ties
- the applicant's record in fulfilling obligations under previous grants of bail
- the strength of the evidence tendered to show that the applicant committed the offence
- the applicant's previous convictions of offences punishable with imprisonment

2. Where the offence is not punishable with imprisonment and where bail is denied, the relevant grounds for denial are—

- the applicant is likely to fail to surrender to custody because:
  - having been previously granted bail in other proceedings, the applicant failed to surrender to custody
  - the applicant is to be kept in custody for the applicant's protection; OR the applicant, being a child is to be kept in custody for the applicant's welfare

- the applicant is to be kept in custody pursuant to a sentence of:
  - a court
  - any authority acting under the Defence Act
- the applicant is arrested for absconding bail

Signature:

Date:

Note—

The applicant must be given a copy of this form

Acknowledgement of Receipt

I acknowledge that I have been provided with a copy of the reasons for the refusal of my application to be released on bail

Applicant's signature:

Date:

FOURTH SCHEDULE (Section 12(3))



*Notice of Appeal by Prosecution against Grant of Bail*

THE BAIL ACT

(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 the.....Court 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 the .....Police Station every

..... between the hours of

.....am/pm to .....am/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 at .....in 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.

## FIFTH SCHEDULE

(Sections 15 and 16)

## PART I

*Persons Exempt from Acting as a Surety*

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

PART II

*Statutory Declaration to be made by a Surety*

THE BAIL ACT

Parish.....

I .....the  
[insert full name of declarant]

undersigned .....of .....  
[insert occupation] [insert address]

.....do solemnly and sincerely declare as follows:

I have agreed to offer myself as surety for

.....in the case  
[insert full name of defendant all known aliases]

R.v. ....

In this regard I acknowledge my liability to pay the sum of

\$....., which is to be satisfied by a levy on my movable  
and immovable property or the forfeiture of the said sum, if the  
said .....breaches any condition of the  
[insert full name of the defendant]

recognition to be entered before .....Judge /Justice  
[insert name of Judge/Justice]

of the Peace.

State property and value thereof, relied on in support of sum specified  
above.....

I hereby declare that no criminal charge is pending against me.

*Signed:* .....  
*Declarant*

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.

*Signed:* .....  
*Declarant*

Declared before me this                   day of    20.....

*Signed.....*

*Judge, Justice of the Peace,  
Clerk of Courts, Registrar.*

**PART III**

*Declaration as to Surety's Identity and Good Character*

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:*

- |   |   |
|---|---|
| <input type="checkbox"/> Justice of the Peace   | <input type="checkbox"/> Principal of educational institution other than a pre-primary school |
| <input type="checkbox"/> Member of Jamaica Constabulary Force<br>not below the rank of Sergeant |   |
| <input type="checkbox"/> Minister of religion   |   |

**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     .

Passed in the Honourable House of Representatives this 25th day of July, 2023  
with twenty (20) amendments.

JULIET HOLNESS  
*Deputy Speaker.*

Passed in the Senate with one (1) amendment this 6th day of October, 2023.

THOMAS TAVARES-FINSON, OJ, CD, KC, JP  
*President.*

On the 24th day of October, 2023 the House of Representatives agreed to the amendment made by the Senate.

JULIET HOLNESS  
*Speaker.*

*This printed impression has been carefully compared by me with the authenticated impression of the foregoing Act, and has been found by me to be a true and correct printed copy of the said Act.*

*Clerk to the Houses of Parliament.*