

A BILL

entitled

BAIL AMENDMENT ACT 2011

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WHEREAS it is expedient to amend the Bail Act 2005;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act may be cited as the Bail Amendment Act 2011.

Amends section 5

2 Section 5 of the Bail Act 2005 (in this Act referred to as "the principal Act") is amended by repealing subsection (4) and substituting the following subsection—

"(4) Where a police officer grants bail to a person, no conditions shall be imposed under section 4(3), (4) or (6) unless it appears to the police officer that it is necessary to do so—

- (a) to prevent that person from failing to surrender to custody;
- (b) to prevent that person from committing an offence while on bail;
- (c) to prevent that person from interfering with witnesses or otherwise obstructing the course of justice, whether in relation to himself or any other person; or
- (d) for the person's own safety."

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Amends section 5A

3 Section 5A of the principal Act is amended—

(a) by repealing subsection (1) and substituting the following subsection—

“(1) Where a police officer of or above the rank of inspector grants bail under section 462 of the Criminal Code Act 1907—

- (a) before charge while awaiting a decision from the Office of the Director of Public Prosecutions on whether to charge or not; or
- (b) after charge,

in respect of a person who has been taken into custody for an offence, that officer may impose conditions of bail, in accordance with this section.”;

(b) by repealing subsection (3) and substituting the following subsection—

“(3) Where a police officer of or above the rank of inspector grants bail to a person, no conditions shall be imposed under section 4(3), (4) or (6) (as applied by subsection (2) of this section) unless it appears to the police officer that it is necessary to do so —

- (a) to prevent that person from failing to surrender to custody;
 - (b) to prevent that person from committing an offence while on bail;
 - (c) to prevent that person from interfering with witnesses or otherwise obstructing the course of justice, whether in relation to himself or any other person; or
 - (d) for the person’s own safety.”; and
- (c) in subsection (4) by inserting the following paragraph next after paragraph (a)—

“(ab) a requirement that the person has a surety;”.

Inserts section 5B

4 The principal Act is amended by inserting the following section next after section 5A—

“Liability to arrest for breaching conditions of police bail

5B A person who has been released on police bail under section 5A may be arrested without warrant by a police officer, if the police officer has reasonable grounds for suspecting that the person has breached or is likely to breach any of the conditions of the police bail.”.

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Repeal

5 Section 5B of the principal Act, as enacted by section 4 of this Act, is repealed on the coming into operation of section 5 of the principal Act.

Commencement

6 (1) This Act shall come into operation on such day as the Minister may appoint by Notice published in the Gazette.

(2) A Notice made under subsection (1) may appoint different days for different provisions of this Act to come into operation.

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EXPLANATORY MEMORANDUM

This Bill is an amendment to the Bail Act 2005 (hereafter referred to as “the principal Act”).

Clause 1 is the citation.

Clause 2 amends section 5(4) of the principal Act to add to the conditions that a police officer may attach to a police bail granted under that section. The purpose of the amendment in clause 2 is to cater for the automatic repeal of section 5A of the principal Act when phase 4 of PACE comes into operation.

Clause 3 amends section 5A of the principal Act to insert a new subsection (1) to state the two circumstances in which police bail conditions may be issued - before charge while awaiting a decision of the Director of Public Prosecutions as to whether to charge or not, and after charge. The new subsection (1) also makes the conditions for a police bail under section 5A applicable to all offences and not just indictable offences. Section 5A(3) of the principal Act has also been amended in clause 3 to add a new paragraph (d) as a factor which may be considered as a condition of bail. Clause 3 also amends section 5A(4) of the principal Act to add to the conditions that a police officer of or above the rank of inspector may attach to a police bail granted under that section.

Clause 4 inserts a new section 5B into the principal Act, to indicate that a person who has been released on police bail under section 5A may be arrested without warrant by a police officer, if the police officer has reasonable grounds for suspecting that the person has breached any of the conditions of the police bail or is likely to breach any of the conditions of the police bail.

Under clause 5, section 5B of the principal Act, as enacted by clause 4 of this Bill, is repealed on the coming into operation of section 5 of the principal Act.

Clause 6 gives power to the Minister to bring the provisions of this Act into operation by Notice published in the Gazette.