



EXTRAORDINARY
OFFICIAL GAZETTE
THE BAHAMAS
PUBLISHED BY AUTHORITY

NASSAU

4th November, 2011

No. 34 of 2011



No. 37 of 2011

BAIL (AMENDMENT) ACT, 2011

AN ACT TO AMEND THE BAIL ACT

(Date of Assent – 3rd November, 2011)

Enacted by the Parliament of The Bahamas

1. Short title.

This Act, which amends the Bail Act (*Ch.* 103), may be cited as the Bail (Amendment) Act, 2011.

2. Amendment of section 3 of the principal Act.

Subsection (1) of section 3 of the principal Act is amended by the deletion of the words “except as provided in” and the substitution therefore of the words “the requirements of”.

3. Amendment of section 4 of the principal Act.

Subsections (2) and (3) of section 4 of the Bail Act¹ are repealed and replaced as follows --

- “(2) Notwithstanding any other provision of this Act or any other law, any person charged with an offence mentioned in Part C of the *First Schedule*, shall not be granted bail unless the Supreme Court or the Court of Appeal is satisfied that the person charged --
- (a) has not been tried within a reasonable time;
 - (b) is unlikely to be tried within a reasonable time; or
 - (c) should be granted bail having regard to all the relevant factors including those specified in Part A of the *First Schedule* and subsection (2B).

¹Ch. 103

and where the court makes an order for the release, on bail, of that person it shall include in the record a written statement giving the reasons for the order of the release on bail.

- (2A) For the purpose of subsection (2)(a) and (b) —
- (a) without limiting the extent of a reasonable time, a period of three years from the date of the arrest or detention of the person charged shall be deemed to be a reasonable time;
 - (b) delay which is occasioned by the act or conduct of the accused is to be excluded from any calculation of what is considered a reasonable time.
- (2B) For the purpose of subsection (2)(c), in deciding whether or not to grant bail to a person charged with an offence mentioned in Part C of the *First Schedule*, the character or antecedents of the person charged, the need to protect the safety of the public or public order and, where appropriate, the need to protect the safety of the victim or victims of the alleged offence, are to be primary considerations.
- (3) Notwithstanding any other enactment, an application for bail by a person who has been convicted and sentenced to a term of imprisonment in respect of any offence mentioned in Part D of the *First Schedule* shall lie to the Supreme Court or the Court of Appeal.
- (3A) Notwithstanding section 3 or any other law, the Magistrates Court shall not have jurisdiction for the grant of bail in respect of any person charged with an offence mentioned in Part C or Part D of the *First Schedule*.”.

4. Amendment to First Schedule of the principal Act.

The *First Schedule* to the principal Act is amended —

- (a) by the repeal of Part A and the substitution of the following —

“PART A

In considering whether to grant bail to a defendant, the court shall have regard to the following factors —

- (a) whether there are substantial grounds for believing that the defendant, if released on bail, would —
- (i) fail to surrender to custody or appear at his trial;
 - (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) whether the defendant should be kept in custody for his own protection or, where he is a child or young person, for his own welfare;
- (c) whether he is in custody in pursuance of the sentence of a Court or any authority acting under the Defence Act;
- (d) whether there is sufficient information for the purpose of taking the decisions required by this Part or otherwise by this Act;
- (e) whether having been released on bail in or in connection with the proceedings for the offence, he is arrested pursuant to section 12;
- (f) whether having been released on bail previously, he is charged subsequently either with an offence similar to that in respect of which he was so released or with an offence which is punishable by a term of imprisonment exceeding one year;
- (g) the nature and seriousness of the offence and the nature and strength of the evidence against the defendant.”;
- (b) in Part B, by the deletion of the following words —
 - “Attempted Murder – section 292, Ch. 84;
 - Possession of Firearm designed to discharge explosive matter – section 30(1)(a), Ch. 213;
 - Possession of Automatic Weapons – section (30)(1)(b), Ch. 213;
 - Possession of Firearm or Ammunition with intent to endanger life or cause serious injury to property – section 33, Ch. 213;
 - Possession of Firearm with intent to commit an indictable offence – section 34(1), Ch. 213;
 - Possession of Dangerous Drugs with intent to supply – section 22, Ch. 228;
 - Any offence under any of the following sections of the Sexual Offences Act, Ch. 99:
 - 6 (rape), 10 (sexual intercourse with a person under fourteen years), 12 (sexual intercourse with a person suffering from a mental disorder), 13 (incest) and 14 (sexual intercourse with a dependant).”; and
- (c) in Part C, by the insertion in the appropriate place of the following words —

“Attempted Murder – section 292, Ch. 84;

Possession of Firearm designed to discharge explosive matter – section 30(1)(a), Ch. 213;

Possession of Automatic Weapons – section (30)(1)(b), Ch. 213;

Possession of Firearm or Ammunition with intent to endanger life or cause serious injury to property – section 33, Ch. 213;

Possession of Firearm with intent to commit an indictable offence – section 34(1), Ch. 213;

Possession of Dangerous Drugs with intent to supply – section 22, Ch. 228;

Any offence under any of the following sections of the Sexual Offences Act, Ch. 99:

6 (rape), 10 (sexual intercourse with a person under fourteen years), 12 (sexual intercourse with a person suffering from a mental disorder), 13 (incest) and 14 (sexual intercourse with a dependant);”;

(d) in Part D, by the deletion of the following words —

“Possession of Firearm or Ammunition with intent to endanger life or cause serious injury to property – section 33, Ch. 213;

Possession of Firearm with intent to commit an indictable offence – section 34(1), Ch. 213;

Possession of Dangerous Drugs with intent to supply – section 22, Ch. 228;”.