

No. 20 -2010

I assent,

[L.S.]

(sgd) P. L. Allen
Governor-General

July 22, 2010

AN ACT to Amend the Bail Act.

[*July 23, 2010*]

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

1. This Act may be cited as the Bail (Amendment) Act, 2010, and shall be read and construed as one with the Bail Act (hereinafter referred to as the principal Act) and all amendments thereto. Short title and construction.

2. Section 3 of the principal Act is amended by inserting next after subsection (4) the following as subsection (4A)— Amendment of section 3 of principal Act.

“(4A) Bail shall be granted to a defendant in relation to an offence specified in the Second Schedule, only if the defendant satisfies the Court that bail should be granted.”. Second Schedule.

Amendment
of section 10
of principal
Act.

3. Section 10 of the principal Act is amended by—

- (a) renumbering the section as subsection (1); and
- (b) inserting next after subsection (1), as renumbered, the following as subsections (2) to (6)—

“ (2) Where bail is granted to a defendant by a 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 release from custody of the defendant, give oral notice to the Court of that intention; and
- (b) give to the Court and the defendant, within twenty-four hours after the conclusion of the proceedings referred to in paragraph (a), a written notice of the appeal, setting out the reasons therefor.

(4) Subject to subsection (5), upon the receipt of the oral notice referred to in subsection (3)(a), the Court 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 order for the grant of bail shall take immediate effect.

(6) The hearing of an appeal under this section shall be commenced within seventy-two hours (excluding Saturdays, Sundays and days declared to be Public General Holidays under section 2 of the Holidays (Public General) Act), or such longer period, as the Court may in any particular case consider

appropriate, after oral notice is given under subsection (3)(a).”.

4. Section 17 of the principal Act is amended in subsection (2)(b), by deleting the word “Schedule” and substituting therefor the words “First Schedule”.

Amendment of section 17 of principal Act

5. The principal Act is amended by—

Insertion of new Second Schedule in principal Act.

- (a) renumbering the Schedule as the First Schedule; and
- (b) inserting next after the First Schedule, as renumbered, the following as the Second Schedule—

“ SECOND SCHEDULE (Section 3)

Offences Requiring Special Provision for the Grant of Bail

1. Murder.
2. Any offence under section 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 42A of the Larceny Act (extortion).
5. Any offence under the following provisions of the Firearms Act, namely—
 - (a) section 4 (importation, exportation and trans-shipment of firearms or ammunition);
 - (b) section 9 (manufacture or dealing in firearms or ammunition or prohibited weapons);
 - (c) section 10 (acquisition or disposal of firearms or ammunition or prohibited weapons);
 - (d) section 20 (possession of firearms or ammunition, restricted or prohibited weapons);
 - (e) section 24 (possession of firearm or ammunition with intent to injure); or
 - (f) section 25 (use or possession of firearm or imitation firearm in certain circumstances).

6. Any offence under the following provisions of the Offences Against the Person Act, namely—

- (a) section 8 (conspiring 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); or
- (g) 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 under section 20.

7. Any offence under the following provisions of the Dangerous Drugs Act, namely—

- (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 in manufacture of new drugs);
or

(k) section 21A (using the postal services for drugs).

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

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

10. Any offence under the following provisions of the Offences Against the Person Act, namely—

(a) section 44 (rape);

(b) section 45, 47, 48 or 50 (procuring defilement of girl under eighteen; defilement of female, etc.; carnally knowing girl under twelve; or above twelve and under sixteen, respectively);

(c) section 53 (indecent assault, etc.);

(d) section 56 or 57 (forcible abduction or abduction of girl under sixteen, respectively);

(e) section 58 (procuration);

(f) section 59 (procuring defilement of women by threats or fraud, or administering drugs);

(g) section 60 (abduction of girl under eighteen with intent to have carnal knowledge);

(h) section 61 (unlawful detention with intent to have carnal knowledge);

(i) section 69 (child stealing); or

(j) section 70 (kidnapping).

11. Perverting the course of justice.”

Passed in the House of Representatives this 22nd day of June, 2010 with two (2) amendments.

DELROY H. CHUCK

Speaker.

Passed in the Senate this 9th day of July, 2010.

OSWALD G. HARDING, OJ, CD, QC
President.

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.