

A BILL
ENTITLED

AN ACT to Make interim provision in relation to the grant of bail in specified circumstances.

WHEREAS sections 13 to 26 (inclusive) of the Constitution of Jamaica (hereinafter referred to as the Constitution) set out certain fundamental rights and freedoms of the individual, subject to limitations designed to ensure that the enjoyment of the said rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest:

AND WHEREAS it is desirable for the protection of the rights of others or the public interest to introduce more stringent conditions regarding the grant of bail to persons charged with certain serious offences:

AND WHEREAS section 50 of the Constitution provides that an Act of Parliament to which that section applies (namely, one the Bill for which has been passed by both Houses and at the final vote thereon in each House has been supported by the votes of not less than two-thirds of all the members of that House) shall not be void to the extent of any inconsistency with the provisions of sections 13 to 26 (inclusive) of the Constitution but shall, notwithstanding any inconsistency, prevail over those provisions:

AND WHEREAS it is necessary and expedient that the provisions of this Act have effect notwithstanding any inconsistency with the provisions of sections 13 to 26 (inclusive) of the Constitution:

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NOW, THEREFORE, BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Jamaica in accordance with the provisions of section 50 of the Constitution of Jamaica, and by the authority of the same, as follows:-

1. Short title.

1. This Act may be cited as the Bail (Interim Provisions for Specified Offences) Act, 2008.

2. Duration of this Act.

2. This Act shall continue in force for a period of one year from the date of its commencement and shall then expire.

3. Interim provisions in relation to the grant of bail.

3.-(1) While this Act continues in force, the Bail Act shall be read and construed as if the following were inserted as section 3A of that Act-

"Bail in relation to serious offences. Second Schedule.

3A.-(1) A person who is charged with-

(a) any offence specified in paragraphs 1 to 6 of the Second Schedule; or

(b) any offence specified in paragraphs 7 to 11 of the Second Schedule and has, on a previous occasion been convicted of an offence specified in the Second Schedule, shall be entitled to be granted bail only if a period of sixty days, commencing on the date on which the person is first charged with that offence, has elapsed and the person satisfies the Court that bail should be granted.

(2) A person who is charged with any offence specified in paragraphs 7 to 11 of the Second Schedule and who has not, on a previous occasion, been charged with any offence specified in the Second Schedule, shall be entitled to be granted bail only if that person satisfies the Court that bail should be granted.

(3) In any case falling within subsection (1), upon the expiration of the sixty day period mentioned in that subsection, the procedure set out in section 22 shall apply in respect of that person."

MEMORANDUM OF OBJECTS AND REASONS

A decision has been taken to temporarily provide in relation to the Bail Act that-

(a) a person who is charged with-

(i) any offence specified in paragraphs 1 to 6 of the Second Schedule to the Act; or

(ii) any offence specified in paragraphs 7 to 11 of the Second Schedule to the Act, and has a previous conviction for another offence specified in that Schedule,

shall be entitled to be granted bail only after the expiration of a period of sixty days commencing on the date on which the person is first charged, and only if the person satisfies the Court that bail should be granted; and

(b) a person charged with an offence specified in the Second Schedule to the Act and not having a previous conviction for any such offence, is entitled to be granted bail only if the person satisfies the Court that bail should be granted.

This Bill seeks to give effect to that decision and is a companion to other proposed legislation aimed at reducing crime.

The Bill expires after a period of one year from the date of its commencement.

DOROTHY C. LIGHTBOURNE, Q.C.
Minister of Justice.

A BILL

ENTITLED

AN ACT to Make interim provision extending the powers of arrest and detention under sections 50B and 50F of the Constabulary Force Act.

WHEREAS sections 13 to 26 (inclusive) of the Constitution of Jamaica (hereinafter referred to as the Constitution) set out certain fundamental rights and freedoms of the individual, subject to limitations designed to ensure that the enjoyment of the said rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest:

AND WHEREAS it is desirable for the protection of the rights of others or the public interest to introduce more stringent conditions regarding the arrest and detention of persons under the special powers given by Part IIA of the Constabulary Force Act:

AND WHEREAS section 50 of the Constitution provides that an Act of Parliament to which that section applies (namely, one the Bill for which has been passed by both Houses and at the final vote thereon in each House has been supported by the votes of not less than two-thirds of all the members of that House) shall not be void to the extent of any inconsistency with the provisions of sections 13 to 26 (inclusive) of the Constitution but shall, notwithstanding any inconsistency, prevail over those provisions:

AND WHEREAS it is necessary and expedient that the provisions of this Act have effect notwithstanding any inconsistency with the provisions of sections 13 to 26 (inclusive) of the Constitution:

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NOW, THEREFORE, BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Jamaica in accordance with the provisions of section 50 of the Constitution of Jamaica, and by the authority of the same, as follows:-

1. Short title.

1. This Act may be cited as the Constabulary Force (Interim Provisions for Arrest and Detention) Act, 2008.

2. Duration of this Act.

2. This Act shall continue in force for a period of one year from the date of its commencement and shall then expire.

3. Interim provisions in relation to sections 50B and 50F; of the Constabulary Force Act.

3.-(1) While this Act continues in force, the provisions specified in subsections (2) and (3) shall have effect in relation to the Constabulary Force Act (hereinafter referred to as the Act).

(2) Section 50B(4) of the Act shall be read and construed as if the words ", whether within or outside of the particular locality," were inserted immediately after the word "exercise".

(3) The Act shall be read and construed as if the following provision were substituted for section 50F-

"Arrest and detention.

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 under the powers given by this Part unless a Divisional Commander, or a member of the Force not below the rank of Assistant Commissioner, is satisfied that-

(a) there is reasonable ground for the arrest or detention of such person; or

(b) in the case of a person who is outside of that locality, there is reasonable ground to suspect that the person is, or has been, or is about to be, involved in the commission of a criminal offence in the locality.

(2) Where any person is arrested or detained pursuant to the powers conferred by section 50B(4), that person shall-

(a) immediately be told the reason for his arrest or detention;

(b) forthwith be taken before a Justice of the Peace who shall determine whether or not there is reasonable ground-

(i) for the arrest or detention; and

(ii) in the case of a person who is arrested or detained outside of the locality in relation to which action is taken under section 50B, there is reasonable ground to suspect that the person is, or has been, or is about to be, involved in the commission of a criminal offence in the locality.

(3) If a Justice of the Peace is satisfied that the arrest or detention 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 the person-

(a) notwithstanding the provisions of section 22 of the Bail Act, be remanded in custody for a period not exceeding seventy-two hours; and

(b) at the expiration of the period of remand ordered under paragraph (a), be taken before a Resident Magistrate.

(4) Notwithstanding subsection (3)(b), where it is intended to hold an identification parade in respect of the person so arrested or detained, the provisions of section 63A of the Judicature (Resident Magistrates) Act shall apply.

(5) Where a Justice of the Peace makes an order pursuant to subsection (3) in respect of any person so arrested or detained, the person shall be taken to a police station or lock-up without delay, and an entry shall be made in accordance with the Prisons (Lock-ups) Regulations, 1980.

(6) Where a Justice of the Peace is not satisfied that the arrest or detention of any person is reasonably required in the interest of justice, he shall order that the person be released forthwith."

MEMORANDUM OF OBJECTS AND REASONS

Part IIA of the Constabulary Force Act sets out special powers for preventing or detecting crime, including the power of the Commissioner of Police to establish a cordon, and impose a curfew, in any locality where it appears to him that there is reasonable ground to believe that, in the interest of public safety or public order, or for the purpose of detecting crime, it is necessary so to do.

Because of the current level of crime, a decision has been taken to temporarily extend (for a period of one year) the provisions of sections 50B and 50F of the Constabulary Force Act so as to

(a) provide for the arrest and detention of a person outside of the locality in which the special cordon and curfew powers are being exercised, if a Divisional Commander or a member of the Force not below the rank of Assistant Commissioner is satisfied that there is reasonable ground for suspecting that the person is, or has been, or is about to be, involved in the commission of a criminal offence in the locality; and

(b) increase, from twenty-four to seventy-two hours, the period for which a Justice of the Peace may, if satisfied that the detention or arrest of any person is reasonably required in the interest of justice, order that

person, notwithstanding the provisions of section 22 of the Bail Act, to be remanded in custody before being released or taken before a Resident Magistrate. This Bill seeks to give effect to that decision and is a companion to other proposed legislation aimed at reducing crime.

The Bill expires after one year from the date of its commencement.

TREVOR MACMILLAN
Minister of National Security.

A BILL

ENTITLED

AN ACT to Amend the Offences Against the Person Act.

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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. Short title and construction.

1. This Act may be cited as the Offences Against the Person (Amendment) Act, 2008, and shall be read and construed as one with the Offences Against the Person Act (hereinafter referred to as the principal Act) and all amendments thereto.

2. Amendment of section 20 of principal act.

2. Section 20 of the principal Act is amended by-

(a) deleting the word "Whosoever" and substituting therefor the words "Subject to subsection (2), whosoever";

(b) renumbering the section as subsection (1) of section 20; and

(c) inserting next after subsection (1), as renumbered, the following as subsections (2) and (3)-

" (2) A person who is convicted before a Circuit Court of-

(a) shooting with intent to do grievous bodily harm or with intent to resist or prevent the lawful apprehension or detainer of any person; or

(b) wounding with intent, with use of a firearm,

shall be liable to imprisonment for life, or such other term, not being less than fifteen years, as the Court considers appropriate.

(3) In this section, "firearm" has the meaning assigned to it by section 2 of the Firearms Act".

MEMORANDUM OF OBJECTS AND REASONS

A decision has been taken to amend the Offences Against the Person Act in order to provide for a minimum custodial sentence of fifteen years for a person convicted before the Circuit Court of any of the following offences under section 20 of the Act, namely-

(a) shooting with intent to do grievous bodily harm or with intent to resist or prevent the lawful apprehension or detainer of any person; and

(b) wounding with intent, with use of a firearm.

This Bill seeks to give effect to that decision and is intended to emphasize the serious nature of those offences and is a companion to other proposed legislation aimed at reducing crime.

DOROTHY C. LIGHTBOURNE, Q.C.
Minister of Justice.

A BILL

ENTITLED

AN ACT Further to Amend the Firearms Act.

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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. Short title and construction.

1. This Act may be cited as the Firearms (Amendment) (No. 2) Act, 2008, and shall be read and construed as one with the Firearms Act (hereinafter referred to as the principal Act) and all amendments thereto.

2. Amendment of section 4 of principal Act.

2. Section 4 of the principal Act is amended in paragraphs (a)(ii), (b)(ii), and (c)(ii), of subsection (2) by inserting immediately after the word "life", in each case, the words "or such other term, being not less than fifteen years, as the Court considers appropriate".

3. Amendment of section 9 of principal Act.

3. Section 9 of the principal Act is amended in paragraphs (a)(ii) and (b)(ii) of subsection (2) by inserting immediately after the word "life", in each case, the words "or such other term, being not less than fifteen years, as the Court considers appropriate".

4. Amendment of section 10 of principal Act.

4. Section 10 of the principal Act is amended in paragraph (a)(ii) of subsection (7) by inserting immediately after the word "life" the words "or such other term, being not less than fifteen years, as the Court considers appropriate".

5. Amendment of section 20 of principal Act.

5. Section 20 of the principal Act is amended in paragraphs (a)(ii), (b)(ii) and (c)(ii) of subsection (4) by inserting immediately after the word "life", in each case, the words "or such other term, being not less than fifteen years, as the Court considers appropriate".

6. Amendment of section 24 of principal Act.

6. Section 24 of the principal Act is amended in paragraph (b) by inserting immediately after the word "life" the words "or such other term being not less than fifteen years, as the Court considers appropriate".

7. Amendment of section 25 of principal Act.

7. Section 25 of the principal Act is amended in subsection (3)(b) by inserting immediately after the word "life" the words "or such other term, being not less than fifteen years, as the Court considers appropriate".

MEMORANDUM OF OBJECTS AND REASONS

A decision has been taken to amend the Firearms Act in order to provide for a minimum sentence of fifteen years for a person convicted before the Circuit Court of any of the following offences-

(a) contravention of restriction on importation, exportation and transshipment of firearms and ammunition (section 4(2)(a)(ii), (b)(ii) and (c)(ii));

(b) contravention of restriction on manufacture and dealing in prohibited firearms and ammunition (section 10(7)(a)(ii));

(c) contravention of restrictions upon purchase, acquisition, sale or transfer of a prohibited weapon on conviction before a Circuit Court (section 10(7)(a)(ii));

(d) possession of firearms and ammunition (section 20(4)(a)(ii), (b)(ii) and (c)(ii));

(e) possession of firearm or ammunition with intent to injure (section 24); and

(f) use and possession of firearm or imitation firearm in certain specified circumstances (section 25).

This Bill seeks to give effect to that decision, which is intended to emphasize the serious nature of those offences, and is a companion to other proposed legislation aimed at reducing crime.

TREVOR MACMILLAN
Minister of National Security.

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".

5. Insertion of new Second Schedule in principal Act.

5. The principal Act is amended by-

(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 transshipment 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
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."

MEMORANDUM OF OBJECTS AND REASONS

A decision has been taken to amend the Bail Act in order to-

(a) provide in the case of specified offences for the onus to be on the defendant to satisfy the Court that bail should be granted; and

(b) confer upon the Director of Public Prosecutions, a right of appeal in cases where bail is granted by a Court.

This Bill seeks to give effect to that decision and is a companion to other proposed legislation aimed at reducing crime.

DOROTHY C. LIGHTBOURNE, Q.C.
Minister of Justice.

A BILL

ENTITLED

AN ACT to Amend the Parole Act.

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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. Short title and construction.

1. This Act may be cited as the Parole (Amendment) Act, 2008, and shall be read and construed as one with the Parole Act (hereinafter referred to as the principal Act) and all amendments thereto.

2. Amendment of section 6 of principal Act.

2. Section 6 of the principal Act is amended-

(a) in subsection (4), by deleting the words "subsection (5)" and substituting therefor the words "subsections (4A) and (5)"; and

(b) by inserting next after subsection (4) the following as subsection (4A)-

" (4A) Subject to subsection (5), an inmate who has been sentenced to imprisonment for life, or for a period of fifteen years or more, for-

(a) any offence under section 4, 9, 10 (7) (a), 20 (4), 24 or 25 of the Firearms Act; or

(b) any of the following offences referred to in section 20(2) of the Offences Against the Person Act, namely-

(i) shooting with intent to cause grievous bodily harm or with intent to resist or prevent the lawful apprehension or detainer of any person; or

(ii) wounding with intent, with use of a firearm,

committed after the coming into operation of this Act, shall be eligible for parole after having served a period of not less than ten years."

MEMORANDUM OF OBJECTS AND REASONS

A decision has been taken to amend the Parole Act in order to provide that persons who have been sentenced to imprisonment for life, or for a period of fifteen years or more, for specified firearms offences shall not be eligible for parole until after having served a period of not less than ten years of the sentence.

This Bill seeks to give effect to that decision, which is intended to emphasize the serious nature of those offences, and is a companion to other proposed legislation aimed at reducing crime.

TREVOR MACMILLAN
Minister of National Security.