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Third Session Fourth Parliament Republic of Trinidad  
and Tobago

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REPUBLIC OF TRINIDAD AND TOBAGO

**Act No. 18 of 1994**

[L.S.]

AN ACT to amend the law relating to release from custody of accused persons in criminal proceedings and to make provision for legal aid for persons kept in custody and for connected purposes.

*[Assented to 15th September, 1994]*

WHEREAS it is enacted by section 13(1) of the Preamble  
Constitution that an Act of Parliament to which that Chap. 1:01

section applies may be expressly declare that it shall have effect even though inconsistent with sections 4 and 5 of the Constitution and, if any Act does so declare, it shall have effect accordingly:

And whereas it is provided in section 13(2) of the Constitution that an Act of Parliament to which that section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House:

And whereas it is necessary and expedient that the provisions of this Act shall have effect notwithstanding sections 4 and 5 of the Constitution:

**Enactment**

ENACTED by the Parliament of Trinidad and Tobago as follows:—

**Short title**

1. This Act may be cited as the Bail Act, 1994.

**Act inconsistent with sections 4 and 5 of the Constitution**

2. This Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution.

**Interpretation**

3. (1) In this Act—

“bail in criminal proceedings” means—

- (a) bail grantable in or in connection with proceedings for an offence to a person who is accused or convicted of the offence; or
- (b) bail grantable to a person who is under arrest or for whose arrest a warrant endorsed with a direction for bail is issued;

“child” means a person under the age of fourteen years;

“conviction” includes—

- (a) a finding of guilt;
- (b) a finding that a person is not guilty by reason of insanity; and

(c) a finding under section 66A(1) of the Summary Courts Act that the Chap. 4:20 person in question did the act or made the omission charged;

“Court” includes a Judge, a Magistrate, a Justice of the Peace or a Coroner and, in the case of a specified Court, includes a Judge or Magistrate or, as the case may be, the Justice having power to act in connection with proceedings before that Court;

“proceedings against a fugitive offender” means proceedings under section 12 of the Extradition (Commonwealth and Foreign Territories) Act;

Act No. 36 of 1985

“surrender to custody” means in relation to a person released on bail, surrendering himself into the custody of the Court or of a police officer, in accordance with the conditions under which bail was granted, at the time and place appointed for him to do so;

“vary” in relation to bail, means imposing further conditions after bail is granted, or altering or rescinding conditions;

“young person” means a person who has attained the age of fourteen and is under the age of sixteen.

(2) Where a written law which relates to bail in criminal proceedings refers to the person bailed appearing before a Court, it is to be construed, unless the context otherwise requires, as referring to his surrendering himself into the custody of the Court.

#### 4. This Act applies—

Application of Act

(a) to an offence committed in Trinidad and Tobago or elsewhere; and

(b) to an extraditable offence under the Extradition (Commonwealth and Foreign Territories) Act.

Eligibility for bail

5. (1) Subject to subsection (2), a Court may grant bail to any person charged with any offence other than an offence listed in Part I of the First Schedule.

(2) A Court shall not grant bail to a person who is charged with an offence listed in Part II of the First Schedule and has been convicted on three occasions arising out of separate transactions—

(a) of any offence; or

(b) of any combination of offences

listed in that Part, unless on application to a Judge he can show sufficient cause why his remand in custody is not justified.

(3) In calculating the three prior convictions referred to in subsection (2), only those convictions recorded within the last ten years shall be taken into account.

Circumstances in which bail may be denied

6. (1) In this section—

(a) “default” in relation to the defendant means a default for which he is to be dealt with under section 10 of the Probation of Offenders Act;

(b) references to previous grants to bail in criminal proceedings include a reference to bail granted before the coming into operation of this Act;

(c) references to a defendant’s being kept in custody or being in custody include, where a defendant is a child or young person, his being kept in a place of detention provided under Part IV of the Children Act;

Chap. 13:51

Chap. 46:01

(d) the question whether an offence is one which is punishable with imprisonment shall be determined without regard to any enactment prohibiting or restricting the imprisonment of young offenders or first offenders.

(2) Where the offence or one of the offences of which the defendant is accused or convicted in the proceedings is punishable with imprisonment, it shall be within the discretion of the Court to deny bail to the defendant in the following circumstances:

(a) where the Court is satisfied that there are substantial grounds for believing that the defendant, if released on bail would—

(i) fail to surrender to custody;

(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) where the Court is satisfied that 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) where he is in custody in pursuance of the sentence of a Court or any authority acting under the Defence Act;

Chap. 14:04

(d) where the Court 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 him;

(e) where, having been released on bail in or in connection with the proceedings for the offence, he is arrested in pursuance of section 13;

- (f) where he is charged with an offence alleged to have been committed while he was released on bail; or
- (g) where his case is adjourned for inquiries or a report and it appears to the Court that it would be impracticable to complete the inquiries or make the report without keeping him in custody.

(3) In the exercise of its discretion under subsection (2)(a) the Court shall consider the following:

- (a) the nature and seriousness of the offence or default and the probable method of dealing with the defendant for it;
- (b) the character, antecedents, associations and social ties of the defendant;
- (c) the defendant's record with respect to the fulfilment of his obligations under previous grants of bail in criminal proceedings;
- (d) except in the case of a defendant whose case is adjourned for inquiries or a report, the strength of the evidence of his having committed the offence or having failed to surrender to custody; and
- (e) any other factor which appears to be relevant.

(4) Where any offence of which the defendant is accused or convicted in the proceedings is one which is not punishable with imprisonment, it shall be within the discretion of the Court to deny bail in the following circumstances:

- (a) where it appears to the Court that, having been previously granted bail in criminal proceedings, he has failed to surrender to custody in accordance with his obligations under the grant of bail and the Court believes, in view of that failure, that the defendant, if released on bail, would fail to surrender to custody;

- (b) where the Court is satisfied that he should be kept in custody for his own protection or, where he is a child or young person, for his own welfare;
- (c) where he is in custody in pursuance of a sentence of a Court or any authority acting under the Defence Act;
- (d) where, having been released on bail in or in connection with the proceedings for the offence, he is arrested in pursuance of section 14.

7. (1) Subject to subsection (3), where the defendant is granted bail, the conditions mentioned in subsections (3) to (6) of section 12 shall not be imposed unless it appears to the Court that it is necessary to do so—

Restrictions on conditions of bail

- (a) for the purpose of preventing the occurrence of any of the events referred to in section 6;
- (b) to enable enquiries or a report to be made into the defendant's physical or mental condition.

(2) Subsection (1) also applies to any application to the Court to vary the conditions of bail or to impose conditions in respect of bail which has been granted unconditionally.

(3) Nothing in this section shall restrict the Magistrate's power under section 66A of the Summary Courts Act to remand the defendant.

8. (1) Subject to subsection (2), where—

Record of decision as to bail

- (a) a Court or a police officer grants bail in criminal proceedings;
- (b) a Court refuses bail in criminal proceedings to an accused person;

(c) a Court or a police officer appoints a time or place or a Court appoints a different time or place for a person granted bail in criminal proceedings to surrender to custody; or

(d) a Court varies any condition of bail or imposes conditions in respect of bail in criminal proceedings,

that Court or police officer shall make a record of the decision and, where requested to do so by the person in relation to whom the decision was taken, shall cause a copy of the record of the decision as soon as practicable after the record is made, to be given to him.

(2) Where bail in criminal proceedings is granted by endorsing a warrant of arrest, the police officer who releases on bail the person arrested shall make the record required by subsection (1) instead of the Judge or Magistrate who issued the warrant.

Court to give reasons  
for granting or  
refusing bail

9. (1) Where a Magistrate's Court—

(a) grants bail in criminal proceedings over an objection to bail by or on behalf of the police;

(b) refuses bail in criminal proceedings;

(c) imposes conditions in granting bail in criminal proceedings; or

(d) varies any conditions of bail,

in relation to an accused person then the Magistrate shall, in order to enable the accused person and the police to consider making an application in the matter to the High Court, give reasons for granting or refusing bail or for imposing or varying the conditions.

(2) A Court, which is by virtue of subsection (1) required to give reasons for its decisions, shall include a note of those reasons in the record of its decision and shall give a copy of that note to the police and to the accused person in relation to whom the decision is taken.

10. Where a Magistrate's Court inquiring into or trying an offence alleged to have been committed by a person refuses bail, it shall inform him that he may apply to the High Court to be granted bail.

Accused to be informed of his right to apply to High Court for bail

11. (1) Where a Magistrate's Court grants or refuses bail in criminal proceedings or imposes conditions in granting bail in criminal proceedings, the High Court may, on application by an accused person or the police, grant or refuse bail or vary the conditions.

Power of High Court to grant, refuse or vary conditions of bail

(2) Where the High Court grants bail to an accused person under subsection (1), it may direct him to appear at a time and place which the Magistrate's Court could have directed and the recognisance of any surety shall be conditioned accordingly.

(3) Where the High Court refuses an accused person bail under subsection (1) and the accused is not then in custody, the Court shall issue a warrant for the arrest of the accused, and the accused shall be brought before a Magistrate's Court and shall be remanded in custody.

(4) The powers of the High Court under this section are without prejudice to the jurisdiction vested in the High Court under any other law.

12. (1) A person granted bail in criminal proceedings shall surrender to custody.

General provisions relating to bail

(2) A Court may require any person applying for bail to provide, as a condition for bail before his release, a surety to secure his surrender to custody.

(3) A Court may further require any person applying for bail to—

- (a) surrender his passport to the Court;
- (b) inform the Court if he intends to leave the State;

(c) report at specified times to any police station,  
and comply with any requirements as appear to the Court to be necessary to ensure that—

- (i) he surrenders to custody;
- (ii) he does not commit an offence while on bail;
- (iii) he does not interfere with witnesses or otherwise obstruct the course of justice, whether in relation to himself or any other person; and
- (iv) he makes himself available for the purpose of enabling inquiries or a report or any medical examination, to be made to assist the Court in dealing with him for the offence.

(4) Where it appears that the applicant for bail is unlikely to remain in Trinidad and Tobago until the time appointed for him to surrender to custody, he may be required, before being released on bail, to give security for his surrender to custody and the security may be given by him or on his behalf.

(5) Where a parent or guardian of a child or young person consents to be a surety for the child or young person for the purposes of this section, the parent or guardian may be required to ensure that the child or young person complies with any condition imposed on him by virtue of subsection (3), except that—

- (a) no condition shall be imposed on the parent or the guardian of a young person by virtue of this subsection where it appears that the young person will attain the age of sixteen before the time to be appointed for him to surrender to custody; and

(b) the parent or guardian shall not be required to secure compliance with any condition to which his consent does not extend and shall not in respect of those conditions to which his consent does extend, be bound in a sum greater than two thousand, five hundred dollars.

(6) Where a Court has granted bail in criminal proceedings, it may on application—

(a) by or on behalf of the person to whom it was granted; or

(b) by the prosecutor or a police officer,

vary the conditions of bail or, in respect of bail which it has granted unconditionally, impose conditions.

(7) This section is subject to section 66A(3) of the Summary Courts Act.

13. (1) A person who has been released on bail in criminal proceedings and has failed to surrender to custody is guilty of an offence unless he has reasonable cause for his failure to surrender to custody.

Offence of  
absconding by  
person released  
on bail

(2) A failure to give to a person granted bail in criminal proceedings a copy of the record of the decision shall not constitute a reasonable cause for that person's failure to surrender to custody.

(3) In any proceedings for an offence under subsection (1), a document purporting to be a copy of any part of the prescribed record which relates to the time and place appointed for the person specified in the record to surrender to custody and duly certified by the appropriate officer of the Court to be a true copy of that part of the record shall be evidence of the time and place appointed for that person to surrender to custody.

(4) For the purposes of subsection (3)—

(a) "prescribed record" means the record of the decision of the Court, or police officer made in pursuance of section 8(1);

- (b) "duly certified" means certified by the appropriate officer of the Court or, by the police officer who took the decision or the police officer in charge of the police station from which the person to whom the record relates was released; and
- (c) "appropriate officer of the Court" means—
- (i) in the case of a Magistrate's Court, the Clerk of the Peace or such other officer as may be authorised by a Magistrate to act for the purpose;
  - (ii) in the case of the Supreme Court of Judicature, the Registrar, the Deputy Registrar, an Assistant Registrar, or such other officer as may be authorised to act for the purpose.

Penalty for absconding

14. (1) An offence under section 13(1) is punishable on summary conviction.

(2) A person who is convicted summarily of any offence under section 13(1) is liable to imprisonment for two years and to a fine of three thousand dollars.

Liability to arrest for absconding or breaking conditions of bail

15. (1) Where a person who has been released on bail in criminal proceedings and is under a duty to surrender into the custody of a Court fails to surrender to custody at the time appointed for him to do so, the Court may issue a warrant for his arrest.

(2) Where a person who has been released on bail (in criminal proceedings) absents himself from the Court without the leave of the Court, at any time after he has surrendered into the custody of the Court and before the Court is ready to begin or to resume the hearing of the proceedings, the Court may issue a warrant for his arrest.

(3) A person who has been released on bail in criminal proceedings may be arrested without warrant by a police officer where—

- (a) the police officer has reasonable grounds for believing that that person is not likely to surrender to custody;
- (b) the police officer has reasonable grounds for believing that that person has committed or is about to commit another offence while on bail;
- (c) the police officer has reasonable grounds for believing that that person is likely to break any of the conditions of his bail or has reasonable grounds for suspecting that that person has broken any of those conditions; or
- (d) in the case where that person was released on bail with a surety, the surety notifies a police officer in writing that that person is unlikely to surrender to custody and that for that reason the surety wishes to be relieved of his obligations as a surety.

(4) A person arrested in pursuance of subsection (3) shall be brought as soon as practicable, and in any event within twenty-four hours after his arrest or at the next sitting of the Court—

- (a) before a Magistrate for the district in which he is arrested; or
- (b) where he is arrested within twenty-four hours of the time appointed for him to surrender to custody, before the Court at which he is to surrender to custody.

(5) Where a Magistrate before whom a person is brought under subsection (4) is of the opinion that that person—

- (a) is not likely to surrender to custody;
- (b) has committed or was about to commit another offence; or
- (c) has broken or is likely to break any condition of his bail,

the Magistrate may, subject to subsection (6), remand him in custody or commit him to custody, as the case may require or, alternatively, grant him bail subject to the same or different conditions, save that where the Magistrate is not of any such opinion, the Magistrate shall grant him bail subject to the same conditions, if any, as were originally imposed.

(6) Where the person brought before the Magistrate under subsection (4) is a child or young person and the Magistrate does not grant him bail, subsection (5) shall have effect subject to section 74 of the Children Act.

**Bail with surety**

16. (1) This section applies where a person is granted bail in criminal proceedings on condition that he provides a surety for the purpose of securing his surrender to custody.

(2) In considering the suitability of a proposed surety referred to in subsection (1), the Court shall—

- (a) have regard, amongst other things, to—
  - (i) the surety's profession, occupation, trade or business;
  - (ii) his character and his previous convictions, if any; and
  - (iii) his proximity, whether of kinship, place or residence or otherwise, to the person for whom he is to be a surety; and

- (b) require the surety to make a statutory declaration in the form set out in the Second Schedule.

Second Schedule

(3) Where a Court grants a person bail in criminal proceedings under subsection (1), but is unable to release him because no surety or no suitable surety is available, the Court shall fix the amount in which the surety is to be bound and subsections (4) and (5) shall apply for the purpose of enabling the recognisance of the surety to be entered into subsequently.

(4) A recognisance of the surety under subsection (3) may be entered into before such of the persons or descriptions of persons as the Court may by order specify or, if it makes no such order, before any of the following persons:

- (a) where the decision is taken by a Magistrate's Court, before any Magistrate or Clerk of the Peace;
- (b) where the decision is taken by the High Court or the Court of Appeal, before any of the persons specified in paragraph (a) or, where the Rules of the Supreme Court so provide, by a person of such other description as is specified in the Rules.

(5) Where a surety seeks to enter into his recognisance before any person in accordance with subsection (4), but that person declines to take his recognisance because he is not satisfied with the surety's suitability, the surety may apply to—

- (a) the Court which fixed the amount of the recognisance in which the surety was to be bound; or

(b) a Magistrate's Court for the district in which he resides,

for that Court to take his recognisance and that Court shall, if satisfied of his suitability, take his recognisance.

(6) Where, in pursuance of subsection (4), a recognisance is entered into otherwise than before the Court that fixed the amount of the recognisance, the recognisance shall have the full force and effect as if it had been entered into before that Court.

Forfeiture of security  
or recognisance

17. (1) Where a person has given security in pursuance of section 12(4), and the Court is satisfied that he failed to surrender to custody, then, unless it appears that he had reasonable cause for his failure, the Court may order the forfeiture of the security.

(2) Where a Court orders the forfeiture of security under subsection (1), the Court may declare that the forfeiture extends to such amount less than the full value of the security as it thinks fit to order.

(3) Security which has been ordered to be forfeited under subsection (1) shall, to the extent of the forfeiture—

(a) where it consists of money, be accounted for and paid in the same manner as a fine imposed by that Court would be;

(b) where it does not consist of money, be enforced by such Magistrate's Court as may be specified in the order.

(4) This section shall be in addition to any other provision relating to enforcement of recognisances entered into in criminal proceedings under any other written law.

18. (1) Where a person agrees with another to indemnify that other against any liability which that other may incur as a surety to secure the surrender to custody of a person accused or convicted of or under arrest for an offence, he and that other person are guilty of an offence.

Offence of agreeing to indemnify surety in criminal proceedings

(2) An offence under subsection (1) is committed whether the agreement is made before or after the person to be indemnified becomes a surety, whether or not he becomes a surety and whether or not the agreement contemplates compensation in money's worth.

(3) A person guilty of an offence under subsection (1) is liable on summary conviction to imprisonment for two years and to a fine of three thousand dollars.

19. (1) It is an offence for a person to stand surety on the consideration of property which, at the time of standing such surety, is being used as security for the purpose of standing surety for any other person unless the approval of the Court is first obtained.

Offence to stand surety on consideration of property being used as security

(2) A person guilty of an offence under subsection (1) is liable on summary conviction to imprisonment for two years and to a fine of three thousand dollars.

20. The laws specified in the Third Schedule are amended in the manner specified therein.

Amendments Third Schedule

21. (1) The provisions of this Act are in addition to those provisions of any other written law relating to bail.

Saving

(2) Notwithstanding any written law bail granted before the appointed day is valid.

## FIRST SCHEDULE

(Section 5)

## EXCEPTIONS TO PERSONS ENTITLED TO BAIL

## PART I

## CIRCUMSTANCES IN WHICH PERSONS ARE NOT ENTITLED TO BAIL

Where a person is charged with any of the following offences:

- (a) murder;
- (b) treason;
- (c) piracy or hijacking;
- (d) any offence for which death is the penalty fixed by law.

## PART II

## SPECIFIED OFFENCES

- (a) trafficking in narcotics or possession of narcotics for the purpose of trafficking;
- (b) possessing and use of firearms or ammunition with intent to injure;
- (c) possession of imitation firearms in pursuance of any criminal offence;
- (d) rape;
- (e) sexual intercourse with a female under fourteen;
- (f) buggery;
- (g) shooting or wounding with intent to do grievous bodily harm;
- (h) robbery, robbery with aggravation, armed robbery;
- (i) larceny of a motor vehicle;
- (j) burglary and housebreaking;
- (k) perverting or defeating the course of public justice;
- (l) arson;
- (m) an attempt to commit any offence listed in this Part or in Part I.
- (n) receiving stolen goods.

SECOND SCHEDULE

[Section 16(2)(b)]

STATUTORY DECLARATION TO BE MADE BY  
A SURETY OR SURETIES

REPUBLIC OF  
TRINIDAD AND TOBAGO

County of .....

I the undersigned of .....  
do solemnly and sincerely declare as follows:

I/\*We have agreed to offer myself/\*ourselves as surety for  
...../ defendant in the case  
State/Police vs. ....

In this regard I/\*we acknowledge to owe to the State the sum of  
..... to be levied on my/\*our several movable  
and immovable property if the said .....  
fails in the condition of the recognisance to be entered before  
..... Magistrate/Justice of the Peace.

And for that purpose I/\*we, the undersigned declare—

(a) that my/\*our movable and immovable property  
including other financial assets consist of the  
following:

- (i) Particulars of immovable property—  
description of immovable property, date of  
the Deed and name and address of the  
parties to the Deed .....
- (ii) Estimated value of immovable property .....
- (iii) Bank balances—name of the bank, account  
number and amount .....
- (iv) Any other movable property and its value  
.....

(b) that the immovable property specified in sub-  
paragraph (a)(i) above is owned by me/\*us free from  
any encumbrances; or

\*that the immovable property specified in sub-paragraph (a)(i) under mortgage, hypothecated, etc., in consideration of .....

(c) that I/\*we have not stood surety/sureties on the consideration of the aforesaid immovable/movable property in the case/cases noted below which case/cases has/\*have been determined;

(d) that I/\*we have not been convicted of any criminal offence. Further a criminal charge is pending against me/\*us. /\*No criminal charge is pending against me/\*us.

Signed .....

.....  
*Declarant / Declarants*

I/\*We make this declaration conscientiously believing the same to be true and according to the Statutory Declarations Act, and I/\*we am/\*are aware that if there is any statement in this declaration which is false in fact, which I/\*we know or believe to be false or do not believe to be true, I/\*we am/\*are liable to fine and imprisonment.

Signed .....

.....  
*Declarant / Declarants*

Declared before me this  
day of ,  
19.....

Signed .....

*Magistrate, Justice of the Peace, Registrar*

\_\_\_\_\_  
\*Strike whichever is inapplicable.

## THIRD SCHEDULE

(Section 20)

## AMENDMENTS

## THE SUPREME COURT OF JUDICATURE ACT, CHAP. 4:01

## 1. The Supreme Court of Judicature Act is amended—

## (a) in section 48—

(i) in subsection (1), by deleting the words “admitted to bail” and substituting the words “released on bail”; and

(ii) in subsection (2), by deleting the words “admit the appellant to bail” and substituting the words “grant him bail”;

(b) in section 49(1) by deleting the words “admitted to bail” and substituting the words “released on bail”; and

(c) in section 59 by repealing and replacing paragraph (e) as follows:

“(e) to grant bail to an appellant;”.

## SUMMARY COURTS ACT, CHAP. 4:20

## 2. The Summary Courts Act is amended—

(a) in section 26(3) by deleting the words “shall liberate” and substituting the words “shall release”;

## (b) in section 56—

(i) by deleting subsection (2);

(ii) in subsection (3), by deleting the words “The complaint” and substituting the words “Subject to section 5 of the Bail Act, 1994, the complaint”; and

(iii) in subsection (4), by deleting the words “not continued or placed in custody as mentioned above” and substituting the words “granted bail”;

(c) in section 66 by repealing and replacing subsection (3) as follows:

“(3) Subject to section 5 of the Bail Act, 1994, the Court may, upon any such adjournment, remand the defendant in custody by committing him to prison or to such other safe custody as it

thinks fit and the time fixed for the resumption of the trial shall be that at which he is required to appear or to be brought before the Court in pursuance of the remand.

(3A) A committal made under subsection (3) shall be for a maximum period of eight days unless a Court is not held within that time, in which case the defendant shall be brought before the Court on the first day on which the Magistrate holds Court at the place where the order was made.”;

(d) by inserting after section 66 the following new section:

“Remand for  
medical  
examination

66A. (1) Where, on the trial by the Court of an offence punishable on summary conviction with imprisonment, the Court is satisfied that the offence has been committed by the accused, but is of the opinion that an inquiry ought to be made into his physical and mental condition before the method of dealing with him is determined, the Court shall adjourn the hearing to enable a medical examination and report to be made and shall remand him.

(2) An adjournment in pursuance of subsection (1) shall not be for more than three weeks at a time.

(3) Where on an adjournment under subsection (1) the accused is remanded on bail, the Court shall impose conditions under section 12(3)(d) of the Bail Act, 1994 which conditions shall include the requirements that the accused—

(a) undergo medical examination by a duly qualified medical practitioner or, where the inquiry is into his mental condition and the Court so directs, by two such practitioners; and

(b) for the purpose, attend such institution or place, or on such practitioner as the Court directs and, where the inquiry is into his mental condition, comply with any

other directions which may be given to him for that purpose by any person specified by the Court or by a person of any class so specified.”;

- (e) in section 105 by deleting the words “discharge the person upon his entering into a recognisance with or without sureties for a reasonable amount to appear before a Court at the time and place named in the recognisance” and substituting the words “grant him bail in accordance with the Bail Act, 1994, subject to a duty to appear before a Court at such time and place as the police officer appoints”;
- (f) by repealing and replacing section 107 as follows:

“Warrant  
endorsed  
for bail

107. (1) A Magistrate or Justice on issuing a warrant for the arrest of any person may grant him bail by endorsing the warrant for bail in accordance with subsection (2).

(2) A direction for bail endorsed on a warrant under subsection (1) shall—

- (a) state that the person arrested is to be released on bail subject to a duty to appear before such Court and at such time as may be specified in the endorsement; and
- (b) fix the amounts in which any surety is to be bound.

(3) Where a warrant has been endorsed for bail under subsection (1), then, on the person referred to in the warrant being taken to a police station on arrest under the warrant, the officer in charge of the police station shall, subject to his approving any surety tendered in compliance with the endorsement, release the person from custody as directed in the endorsement.”;

- (g) by repealing and replacing section 123(1) and (2) as follows:

“ (1) Where a recognisance to keep the peace or to be of good behaviour has been entered into

before a Court or any recognisance is conditioned for the appearance of a person before a Court or for his doing any other act or thing connected with a proceeding before a Court, and the recognisance appears to the Court to be forfeited, the Court may declare the recognisance to be forfeited and adjudge the persons bound thereby, whether as principal or surety, or any of them, to pay the sum in which they are respectively bound.

(2) The Court which declares the recognisance to be forfeited may, instead of adjudging any person to pay the whole sum in which he is bound, adjudge him to pay part only of the sum or remit the whole sum.”;

(h) in section 124(1)—

(i) by deleting the words “and the costs of the commitment and conveying such person to prison” and substituting the words “and the costs awarded against the defendant, including the costs of the forfeiture, the commitment and the conveying of such person to prison or the levying of distress, as the case may be,”; and

(ii) by inserting immediately after the words “are sooner paid” occurring in line eleven, the following words—

“but, at any time before the issue of the warrant of commitment, the Magistrate or Justice may remit the whole or any part of the sum either absolutely or on such conditions as the Magistrate or Justice thinks fit”;

(i) by repealing and replacing section 128A as follows:

“ 128A. An appellant who is not granted bail shall, pending the determination of his appeal, be treated in like manner as a defendant in custody awaiting trial.”; and

(j) in section 135(1) by deleting the words “shall liberate the appellant if in custody” and substituting the words “shall release the appellant”.

## THE LEGAL AID AND ADVICE ACT, CHAP. 7:07

The Legal Aid and Advice Act is amended—

(a) in section 16—

- (i) in subsection (2), by adding immediately after the words “before the Court” occurring in line 4 thereof, the words “or in the circumstances mentioned in paragraph 5 of Part I of the First Schedule, for the purpose of so much of those proceedings as relates to the grant of bail”;
- (ii) in subsection (3)(b) by deleting the words “paragraphs 2 to 4” and the words “paragraphs 2 to 5”, and by adding immediately after the word “party” the words “or in the circumstances mentioned in paragraph 5 of Part I of the First Schedule, for the purpose of so much of those proceedings as relates to the grant of bail”;
- (iii) by repealing subsection (5) and substituting the following subsection:

“ (5) The power of the Court of Summary Jurisdiction to make an order for the giving of legal aid shall be exercisable by the Court where it appears desirable to the Court to do so in the interest of justice and a Court having that power may, subject to subsection (5A), make such an order—

  - (a) for the purpose of any proceedings described in paragraphs 1 to 4 of Part I of the First Schedule;
  - (b) in the circumstances mentioned in paragraph 5 of Part I of the First Schedule, for the purpose of so much of those proceedings as relates to bail;
  - (c) where a person who is to be sentenced or dealt with for an offence by a Court of Summary Jurisdiction is to be kept in custody to enable inquiries or a report to be made to assist the Court in sentencing or dealing with him for the offence; or

- (d) in the circumstances mentioned in subsections (3) and (4) of this section.”; and
- (iv) by inserting after subsection (5), the following new subsections:

“ (5A) A Court of Summary Jurisdiction shall not make an order for the giving of legal aid to a person unless it appears to the Court that his means are such that he requires assistance in meeting the costs which he may incur for that purpose and first refers the matter to the Director through the office of the Chief Probation Officer for the necessary inquiries and investigations.

(5B) Nothing in subsection (3) shall require a Court of Summary Jurisdiction, in the circumstances mentioned in paragraph 5 of Part I of the First Schedule, to order that the person charged before it be given legal aid for the purposes of the proceedings before that Court and any Juvenile Court as distinct from legal aid for the purpose of so much of those proceedings as relates to the grant of bail or, in those circumstances, to make an order for the giving of legal aid after the conviction of that person.

(5C) Paragraphs (b) and (c) of subsection (5) shall have effect in their application to a person who has not attained the age of sixteen years as if the references to a remand in custody and to being remanded, committed or kept in custody included references to being committed under section 74 of the Children Act to custody in a place of detention provided under Part IV of that Act and named in the commitment.”; and

- (b) in the First Schedule, in Part I, by inserting immediately after paragraph 4 the following new paragraph:

“ 5. An application for bail by a person who is charged with an offence before a Court of Summary Jurisdiction and who is brought before the Court in pursuance of a remand in custody.”.

## PERJURY ACT, CHAP. 11:14

3. Section 12(1) of the Perjury Act is amended by deleting the words "admit him to bail" and substituting the words "grant him bail".

THE INDICTABLE OFFENCES (PRELIMINARY ENQUIRY)  
ACT, CHAP. 12:01

4. The Indictable Offences (Preliminary Enquiry) Act is amended—

(a) by repealing and replacing section 9 as follows:

"Warrant  
endorsed  
for bail

9. (1) A Magistrate issuing a warrant under this Act for the arrest of any person in respect of any offence other than those persons referred to in section 5(1) of the Bail Act, 1994, may grant him bail endorsing the warrant with a direction in accordance with subsection (2).

(2) A direction for bail endorsed on a warrant under subsection (1) shall—

(a) state that the person arrested is to be released on bail subject to a duty to appear before such Court and at such time as may be specified in the endorsement; and

(b) fix the amount in which any surety is to be bound.

(3) Where a warrant has been endorsed for bail under subsection (1), then on the person referred to in the warrant being taken to a police station on arrest under the warrant, the officer in charge of the police station shall, subject to his approving any surety rendered in compliance with the endorsement, release him from custody as directed in the endorsement.;

(b) in section 10(1) by deleting the words "shall either commit the accused person to prison or admit him to bail or permit him to be at large on his own

recognisance in accordance with this Act" and substitute the words "may grant him bail or commit him to prison according to the provisions hereinafter contained";

- (c) in section 11(3) by deleting the words "remand the accused person or admit him to bail" and substituting the words "grant him bail or commit him to custody according to the provisions hereinafter contained";
- (d) in section 15 by deleting the words "subject to the provisions as to bail hereinafter contained, commit the accused person by warrant to prison" and substituting the words "grant bail to the accused person or commit him to custody according to the provisions hereinafter contained";
- (e) in section 22 by deleting the words "commit the accused person" and substituting the words "grant bail to the accused person or commit him to prison according to the provisions hereinafter contained";
- (f) in section 23—

(i) by repealing and replacing subsection (2) as follows:

" (2) Where the Magistrate is of the opinion, on consideration of the evidence and of any statement of the accused, that there is sufficient evidence to put the accused on trial for any indictable offence, the Magistrate shall commit the accused for trial—

- (a) in custody, that is to say, by committing him to prison there to be safely kept until delivered in due course of law; or
- (b) on bail in accordance with the provisions of the Bail Act, 1994, that is to say, by directing the accused to appear before the High Court for trial,

and where his release on bail is conditioned on his providing a surety and, in accordance with section 16 of the Bail Act, 1994, the Magistrate fixes the amount in which the surety is to be bound with a view to his entering into his recognisance subsequently, the

Magistrate shall, in the meantime, commit the accused to custody in accordance with paragraph (a) of this subsection.”;

- (ii) in subsection (4), by deleting the words “admitting the accused person to bail” and substituting the words “granting bail to the accused person”; and
  - (iii) in subsection (6), by deleting the words “admitted to bail” and substituting the words “granted bail”;
- (g) in section 28—
- (i) by repealing and replacing subsections (1) to (3) as follows:
    - “ (1) A Magistrate may grant bail in accordance with the Bail Act, 1994, to any person charged with an offence.
    - (2) Where bail may be granted or refused in the discretion of the Magistrate, such discretion may be exercised at any stage of the proceedings.
    - (3) Whenever the preliminary enquiry is for any cause adjourned, the Magistrate may, upon such adjournment and subject to section 5 of the Bail Act, 1994, remand the accused person in custody by committing him to prison or to such other safe custody as the Magistrate thinks fit and the time fixed for the resumption of the trial shall be that at which he is required to appear or be brought before the Court in pursuance of the remand.”; and
  - (ii) in subsection (4), by deleting the words “admitted to bail” and substituting the words “granted bail”;
- (h) in section 30(1) by deleting the words “admitted to bail” and substituting the words “released on bail”;
- (i) in section 31(1) by deleting the words—
- (i) “admitted to bail” and substituting the words “granted bail”; and
  - (ii) “according to the nature and circumstances of the case” and substituting the words “according to the Bail Act, 1994”;

## (j) in section 33—

- (i) in subsection (1), by deleting the words “who is entitled to be admitted to bail or where an accused person whom the Magistrate has power to bail and who, in his opinion ought to be bailed is committed to prison” and substituting the words “is not released on bail”; and
- (ii) in subsection (2), by deleting the words “admit him to bail” and substituting the words “grant him bail”;

## (k) by repealing and replacing section 34 as follows:

“Court or  
Judge may  
grant bail to  
accused

34. Subject to the Bail Act, 1994 the Court or a Judge may at any time, on the petition of an accused person charged with an offence, grant him bail, and the recognisance of bail may, if the Court or the Judge so directs, be taken before any Magistrate.”;

## (l) in section 37 by deleting the words “admitted to bail” and substituting the words “granted bail”; and

## (m) in section 38—

- (i) in subsection (1), by deleting the words “who has been admitted to bail” and substituting the words “released on bail”; and
- (ii) in subsection (3), by deleting the words “admitted to bail” and substituting the words “released on bail”, and by deleting the words “admit him to bail” and substituting the words “grant him bail”.

## CRIMINAL PROCEDURE ACT, CHAP. 12:02

## 5. The Criminal Procedure Act is amended—

- (a) in section 7 by deleting the words “according to the law in force in England on 30th August 1962” and substituting the words “according to written law”;
- (b) in section 8 by deleting the words “according to the practice observed in criminal trials in England on 30th August 1962” and substituting the words “according to written law”;
- (c) in section 9 by deleting the word “liberation” and substituting the word “release”, and by deleting the

words "admitted to bail" and substituting the words "released on bail";

- (d) in section 11 by deleting the words "admitted to bail", wherever occurring, and substituting the words "released on bail";
- (e) in section 14(5)(c) by deleting the words "admitting the accused person to bail" and substituting the words "releasing the accused person on bail";
- (f) in section 46(2) by deleting the words "order the defendant to be discharged on entering into security by recognisance" and substituting the words "grant bail to the defendant according to the Bail Act, 1994, on the condition that he undertakes";
- (g) in section 58—
  - (i) in subsection (3), by deleting the words "admit him to bail in the meantime" and substituting the words "grant him bail in the meantime according to the Bail Act, 1994";
  - (ii) in subsection (4), by deleting the words "according to the law in force in England on 30th August 1962" and substituting the words "according to written law";
- (h) in the First Schedule, in rule 14(2), by deleting the words "admitted to bail" and substituting the words "released on bail".

#### PROBATION OF OFFENDERS ACT, CHAP. 13:51

6. Section 10 of the Probation of Offenders Act is amended by repealing and replacing subsection (3) as follows:

" (3) A Court issuing a warrant under this section may direct the police officer executing the warrant to grant bail, according to the Bail Act, 1994, to the probationer pending his appearance before the Court."

#### CHILDREN ACT, CHAP. 46:01

7. The Children Act is amended—

- (a) in section 10(2) by deleting from the word "on" occurring in line seven to the end of the subsection and substituting the following words—

"on bail in accordance with the Bail Act, 1994,  
subject to a duty to appear before a

Magistrate's Court at such time and place as the officer appoints"; and

- (b) in section 71 by deleting from the word "on" occurring in line fourteen to the end of the section and substituting the following words:

"on bail in accordance with the Bail Act, 1994, subject to a duty to appear before a Magistrate's Court at such time and place as the officer appoints".

#### PORT AUTHORITY ACT, CHAP. 51:01

8. Section 72(2) of the Port Authority Act is amended by deleting the proviso commencing with the word "However" occurring in line eleven to the end of the subsection and adding the following new subsection:

" (2A) Where a person is taken into custody without a warrant under subsection (1) or subsection (2), a police officer not below the rank of Inspector or the police officer in charge of the police station to which the person is brought, may, and, where it will not be practicable to bring him before a Magistrate's Court within twenty-four hours after his being taken into custody, shall inquire into the case and, unless the offence appears to the officer to be a serious one, grant him bail in accordance with the Bail Act, 1994, subject to a duty to appear before a Magistrate's Court at such time and place as the officer appoints."

#### STATE LANDS ACT, CHAP. 57:01

9. The State Lands Act is amended—

- (a) in section 31 by deleting the words "No person arrested pursuant to the power of arrest contained in section shall be admitted to bail save" and substituting the words "A person arrested under section 30 may, subject to the provisions of the Bail Act, 1994, be granted bail"; and
- (b) in section 32 by deleting the words "If the accused party does not afterwards appear" and substituting the words "Where the accused person does not appear before the Magistrate".

Passed in the House of Representatives this 29th day of August, 1994.

N. COX

*Acting Clerk of the House*

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the House of Representatives and at the final vote thereon in the House has been supported by the votes of not less than three-fifths of all the members of the House, that is to say, the votes of 33 members of the House.

N. COX

*Acting Clerk of the House*

Passed in the Senate this 6th day of September, 1994.

R. CUMBERBATCH

*Acting Clerk of the Senate*

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the Senate and at the final vote thereon in the Senate has been supported by the votes of not less than three-fifths of all the members of the Senate, that is to say, the votes of 28 Senators.

R. CUMBERBATCH

*Acting Clerk of the Senate*