

BAIL (AMENDMENT) BILL, 2024

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BAIL (AMENDMENT) BILL, 2024

A BILL FOR AN ACT TO AMEND THE BAIL ACT

Enacted by the Parliament of The Bahamas

1. Short title and commencement.

- (1) This Act may be cited as the Bail (Amendment) Act, 2024.
- (2) This Act shall come into force on such date as the Minister may specify by Notice published in the *Gazette*.

2. Repeal and replacement of section 8A of the principal Act.

The principal Act is amended by the repeal of section 8A and the replacement by the following—

“8A. Appeal to the Court of Appeal.

- (1) Where the Supreme Court grants or refuses a person bail, or revokes or refuses to revoke bail, the prosecution or the person, shall have a right of appeal to the Court of Appeal.
- (2) Where the prosecution intends to appeal the decision of the Supreme Court to grant bail or to refuse to revoke bail and gives notice of the intention to appeal that decision to the Court of Appeal, the Judge shall remand the accused person into custody pending the filing of a Notice of Appeal by the prosecution in accordance with subsection (3).
- (3) A Notice of Appeal against any decision in subsection (1) shall be filed within seven days of the making of the decision, and pending the hearing of an appeal, the person shall remain in custody.”

3. Insertion of new section 9A into the principal Act.

The principal Act is amended by the insertion immediately after section 9 of the following new section 9A—

“9A. Conditions of recognisance of bail.

- (1) Where a person is granted bail in accordance with this Act, he shall be required to enter into a recognisance of bail which shall contain the conditions to which the grant of bail is subject.
- (2) The recognisance of bail shall be in the form in the *Third Schedule*.
- (3) The breach of any of the conditions contained in the recognisance of bail shall result in the recognisance of bail being void.
- (4) Every recognisance of bail shall specify the profession or calling of the person entering into or acknowledging the same together with his Christian name and surname and the name of his place of residence, and, when duly acknowledged, shall be subscribed by the accused person, his sureties (if any), the judge, magistrate or other authorised person before whom it is acknowledged.
- (5) Subject to section 9, the recognisance of bail shall be conditioned that the accused person—
 - (a) not commit any offence while on bail;
 - (b) not interfere with witnesses;
 - (c) duly appear at the time and place of trial or of an adjourned hearing and not depart the court without leave;
- (6) Subject to section 9, the recognisance of bail may be conditioned that the accused person—
 - (a) report to a police station or other designated place at the times specified therein;
 - (b) submit to monitoring by an electronic device;
 - (c) surrender his passport or other travel documents;
 - (d) comply with the terms of curfew imposed;
 - (e) keep the peace and be of good behaviour; or
 - (f) comply with any other conditions as prescribed by any Practice Direction issued by the Chief Justice.”

4. Amendment of section 12 of the principal Act.

Section 12 is amended by the deletion of subsections (4), (5) and (6) and the substitution of the following—

- “(4) A person arrested pursuant to subsection (3) shall be brought as soon as practicable before a Magistrate, and in any event within forty-eight hours after his arrest.
- (5) A person arrested pursuant to paragraph (d) of subsection (3) and brought before a Magistrate may be remanded in custody or committed to custody, or, alternatively, granted bail.”.

5. Repeal and replacement of section 12A of the principal Act.

Section 12A of the principal Act is repealed and replaced as follows—

“12A. Offence of violating conditions of bail.

- (1) Any person released on bail in criminal proceedings who breaches any conditions of bail, commits an offence.
- (2) Where a person is arrested on reasonable grounds that he committed an offence under subsection (1) and is brought before a Magistrate, the person shall be remanded in custody pending the trial and sentencing for the offence.
- (3) Where a person is convicted of an offence under subsection (1), the prosecution shall, within twenty-one days of his conviction, make an application to the court which granted the bail, for the revocation of the bail in respect of which he was convicted.
- (4) The prosecution shall give to the convicted person, seven days' notice of the hearing of the application.”.

6. Amendment of section 12B of the principal Act.

Section 12B of the principal Act is amended by the deletion of subsection (1) and substitution of the following—

- “(1) An offence under section 12A is punishable on summary conviction to a term of imprisonment not exceeding five years.”.

7. Amendment of Part C of the First Schedule to the principal Act.

Part C of the *First Schedule* is amended by the insertion of the following—

- “An offence under section 12A of the Bail Act (*Ch. 103*)”.

8. Insertion of Third Schedule into the principal Act.

The principal Act is amended by the insertion immediately after the *Second Schedule* of the *Third Schedule* as follows—

“THIRD SCHEDULE

(SECTION 9A)

RECOGNISANCE OF BAIL FORM

Case No.

**IN THE SUPREME COURT/MAGISTRATES COURT
COMMONWEALTH OF THE BAHAMAS
CRIMINAL DIVISION**

BE IT REMEMBERED that on the [insert date], I, [insert full name and address of the accused person and his sureties] all of the Commonwealth of The Bahamas, came into the Registry of the [Court of Appeal/Supreme Court/Magistrates Court] before me

[insert name and title of Registrar]

of the said Court and acknowledged to owe to The Crown the sum of [insert amount of surety] lawful money of the Commonwealth of The Bahamas with [number of sureties] sureties to be levied upon –THEIR goods and chattels, lands and tenements to The Crown's use and which payment truly to be made binds THEIR heirs, executors and administrators firmly by these presents.

SEALED with THEIR seal(s) and dated [insert date]

The condition of the above written recognisance or obligation is such that if the said [insert name of the accused person] shall attend upon the Court of Appeal/Supreme Court/Magistrates Court [insert name and address/number of Court] until the charge/s of [insert charge/s] is/are disposed of and observe —

- (a) the condition not to commit an offence while on bail for the offence/s herein;
- (b) the condition not to interfere with witnesses;
- (c) the condition that he shall appear at the time and place of trial or of an adjourned hearing and not depart the court without leave; or
- (d) any of the conditions specified in section 9A(6) and listed on the reverse side hereof ,

then this recognisance shall be void but otherwise this recognisance shall remain in full force and virtue:

Taken in the Registry of the Court of Appeal/Supreme Court/Magistrates Court this [insert date]

Registrar/Magistrate

SURETIES:

1.

Name:

Occupation:

Address:

House colour and number:

Phone: Home and mobile:

Email address:

P.O.Box:

Workplace:

Address of Workplace:

Phone of Workplace:

Position:

2.

Name:

Occupation:

Address:

House colour and number:

Phone:Home and mobile:

Email address:

P.O.Box:

Workplace:

Address of Workplace:

Phone of Workplace:

Position:

3

Name:

Occupation:

Address:

House colour and number:

Phone:Home and mobile:

Email address:

P.O.Box:

Workplace:

Address of Workplace:

Phone of Workplace:

Position:

CONDITIONS:

[Reporting]

[Monitoring]

[Surrendering passport or travel documents]

[Complying with terms of curfew]

[Keeping the peace and be of good behaviour]

[Complying with any conditions ordered by the Court]

[Name of Judge/Magistrate]

[Date]

This is to certify that [insert name of accused person] agrees to comply with the conditions of this recognisance of bail as outlined above.

[Signature of the accused person]".

OBJECTS AND REASONS

The Bail (Amendment) Bill, 2024 amends the Act for the following purposes—

- (a) by the repeal and replacement of a section 8A to extend the time period permitted to apply for an appeal by the accused person or the prosecution from two days to seven days and pending the appeal the accused person is remanded in custody;
- (b) by the insertion of a new section 9A to prescribe the recognisance of bail form as set out in the Third Schedule and to include the conditions subject to which bail is granted and breach of which conditions renders the bail void;
- (c) in section 12 —
 - (i) to provide that an accused person released on bail in criminal proceedings arrested for breach of the conditions of his bail shall be brought before the magistrate to be dealt with in accordance with sections 12A and 12B; and
 - (ii) where a surety of an accused person released on bail notifies a police officer in writing that he wishes to be relieved of his obligations as surety person arrested shall be brought before a Magistrate and may be remanded or committed to custody or released on bail subject to the same or different conditions of bail;
- (d) in section 12A to provide for the application by the prosecution to the Supreme Court for the revocation of bail where a person is convicted of the offence of breaching the conditions of bail; and
- (e) in section 12B to remove the discretion of the Magistrate to impose a fine on conviction for breach of bail conditions.