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No. 146A

Extract from the Minutes of the Honourable House of Representatives on the 16th day of October, 2001.

GOVERNMENT BUSINESS

Mr. Delroy Chuck continued debate on:

THE BAIL ACT

THE BAIL REGULATIONS RESOLUTION, 2001

WHEREAS by virtue of section 21 of the Bail Act (hereinafter referred to as the Act) the Minister may make regulations generally for giving effect to the provisions and purposes of the Act;

AND WHEREAS on the 27th day of September, 2001, the Minister made the Bail Regulations, 2001;

AND WHEREAS it is provided by section 21 of the Act that regulations made under that section shall be subject to affirmative resolution;

AND WHEREAS it is desirable that the Bail Regulations, 2001 should be affirmed by resolution.

NOW, THEREFORE, be it resolved by the House of Representatives as follows:—

- (a) This Resolution may be cited as the Bail Regulations Resolution, 2001;
- (b) The Bail Regulations Resolution, 2001 are hereby affirmed.

(Mr. Basil Burrell, entered and took his seat).

(Mr. Easton Douglas, entered and took his seat).

On the substantive motion being put, same was agreed to.

I certify that the above is a true extract from the Minutes.

S. M. LEWIS, (MRS.)
Clerk to the Houses of Parliament.

THE BAIL ACT**THE BAIL REGULATIONS, 2001**

In exercise of the power conferred upon the Minister by section 21 of the Bail Act, and every other power hereunto enabling, the following Regulations are hereby made:—

- Citation. 1. These Regulations may be cited as the Bail Regulations, 2001.
- Payment of money as a condition for bail. 2.—(1) This regulation applies where bail is granted to any person subject to the payment of a specified sum as a condition for bail pursuant to section 6 (2) (b) of the Act.
- (2) A Justice of the Peace or police officer shall not specify an amount in excess of four hundred thousand dollars as the payment required of any person as a condition for bail, but nothing in this paragraph shall be construed as limiting the amount that may be specified by a Resident Magistrate or Judge as a condition for bail.
- (3) Payment shall be in cash or, if approved by the Court, Justice of the Peace or police officer, as the case may be, by manager's cheque made out to an account referred to in paragraph (5).
- (4) Where bail is granted by—
- (a) a Justice of the Peace or police officer, the payment shall be made at a police station to a police officer; or
- (b) a Court, the payment shall be made to an Accountant of that Court, and the accountant or police officer, as the case may be, shall issue a receipt therefor.
- (5) A police officer who receives a payment under this regulation shall, before the expiration of the working day next following the day on which the payment is received, lodge the payment with an Accountant of the relevant Court, who shall issue a receipt therefor.
- (6) Every Accountant of the Court for each parish shall lodge all bail payments received by him to a bank account established for that purpose in relation to that parish.
- (7) Suitable arrangements shall be made for—
- (a) the safe-keeping of payments received by police officers during times when it is impracticable for the payment to be lodged with the Accountant; and
- (b) the recording and identification of receipts issued under this regulation.
- Release of travel documents. 3.—(1) A person who surrenders his travel documents to the Court under section 6 (3) (a) of the Act may apply to the Court for permission to travel and for the release of his travel documents for the purpose of such travel.

(2) A Court may grant an application made under paragraph (1) if it thinks fit having regard to all the circumstances, including whether the person is likely to flee the jurisdiction of the Court or surrender to custody, and subject to such conditions as appear to the Court to be necessary to ensure that the person—

- (a) surrenders to custody;
- (b) does not commit an offence while on bail; and
- (c) does not interfere with witnesses or otherwise obstruct the course of justice, whether in relation to himself or any other person.

(3) A person who makes an application under paragraph (1) shall furnish the Court with such information as to the purpose of travel, departure and return dates, and such other information as the Court may require in order to determine whether the permission should be granted.

(4) A receipt shall be issued in respect of any travel document surrendered to the Court, and any receipt so issued shall be returned in exchange for the release of the document:

Provided that where the receipt cannot be produced, the document may be released by an Officer of the Court if such Officer is satisfied that the person receiving the document is the holder thereof and the person, by his signature, acknowledges that he receives the document.

(5) An application under this regulation shall be supported by an affidavit deponed by the applicant.

(6) Where a travel document surrendered to the Court by any person cannot be located after its surrender, that person shall be entitled to recover, free of charge from the Ministry having responsibility for passports, a replacement of the travel document.

(7) Where a travel document surrendered to the Court is lost through the negligence of any person, the Ministry referred to in paragraph (6) shall be entitled to recover from such person the cost of replacing the travel document.

Station
diary to
be kept.

4. A station diary shall be kept exclusively for the purpose of documenting the times and dates of reports made by a person to whom bail is granted, pursuant to a requirement under section 6 (3) (c) of the Act.

Record of
decisions.
Form 1.
Schedule.

5. The record of a decision relating to the grant or refusal of bail or the imposing or variation of any condition of bail shall be in Form 1 of the Schedule.

Suitability
of surety.

6.—(1) A Court may refuse to make a determination under section 17 of the act, that a person is a suitable surety for the purposes of that section until

the Court is satisfied, on such evidence as appears to the Court to be sufficient, as to—

- (a) the person's identity;
- (b) the person's residential address and the period during which he has resided at that address;
- (c) the person's profession, occupation, trade or business;
- (d) the person's good character;
- (e) the person's relationship, whether by kinship, place of residence or otherwise, to the defendant;
- (f) where the person is required to provide a security for the purpose of securing the defendant's surrender to custody, the ownership of any asset that the person undertakes to produce as security; and
- (g) establish that the person is not an exempt person.

Form 2
Schedule.

(2) A declaration for the purposes of section 17(3) of the Act (knowledge of the surety's address and good character) shall be in Form 2 of the Schedule.

Exempt
persons.

7. The following persons are exempt from providing surety for the purpose of securing the release on bail of any person charged with an offence—

- (a) a Resident Magistrate, Judge, a Justice of the Peace who has considered any issue relating to bail in respect of the person charged, or a police officer;
- (b) an attorney-at-law on record for that person in relation to the offence;
- (c) a person charged jointly with that person, or charged with conspiring, aiding or abetting in the commission of the offence;
- (d) a person who has a criminal charge pending against him before any court;
- (e) a person who is not resident in Jamaica; and
- (f) a person who is entitled to immunity from legal process in Jamaica.

Bail
centres.

8.—(1) Every facility that operates as a day training centre under the provisions of the Criminal Justice (Reform) Act is hereby declared to be a bail centre for the purpose of attendance pursuant to an order made under section 6 (3) (e) of the act.

(2) Where attendance at a bail centre is a condition of the grant of bail to any person, the Court, Justice of the Peace or police officer, as the case may be, shall—

- (a) specify the bail centre that the person is to attend, being, where possible, within reasonable travelling distance of the place where the person resides or works;

Form 3
Schedule.

- (b) send a notice in Form 3 of the Schedule and a copy of the record of the decision to the bail centre so specified; and
- (c) inform the centre of the variation of any condition relating to the person's attendance at the centre.

(3) Arrangements shall be made at every bail centre for—

- (a) recording the attendance, or failure to attend at a time specified in the notice, of every person with respect to whom a notice is sent under this regulation;
- (b) notifying the Court, Justice of the Peace or police officer, as the case may be, of any such failure to attend, within twenty-four hours of such failure.

(4) A person who attends a bail centre as a condition of the grant of bail shall furnish to the centre such proof of his identity as the centre shall determine to be satisfactory for ensuring that the person so attending is the person with respect to whom a notice is sent under this regulation.

Defendant
to be in-
formed of
procedure
for appli-
cation or
review.

9. Where a Justice of the Peace, police officer or Court refuses bail in criminal proceedings, that Justice, police officer or Court shall—

- (a) inform the defendant of any further right that the defendant has to apply for bail or for a review of the refusal; and
- (b) furnish a copy of the record of the decision to the defendant or his attorney-at-law.

Application
by surety
for re-
lease.
Form 4
Form 5
Schedule.

10.—(1) An application by a surety for release from his obligations under a recognizance shall be in Form 4 of the Schedule.

(2) A notice to the defendant concerned, as to the release of a surety, shall be in Form 5 of the Schedule.

SCHEDULE

FORM 1

(Regulation 5)

Record of Bail Decisions

Defendant: _____
(name)

of: _____
(address)

Place of custody: _____

Offence charged: _____

Previous decision
(if any): _____
(date and officer/Court that made the decision)

Subject: (check appropriate item)

- ☐ Bail
- ☐ Review of previous bail decision
- ☐ Variation of bail conditions
- ☐ Other (specify)

Decision:

Reasons for decision:

Conditions: (check and complete appropriate item)

- ☐ Payment of money in sum of \$ _____.
- ☐ Surrender of the following travel documents: _____
_____.
- ☐ Defendant to report to the officer in charge of the _____
Police Station at the following times and frequency _____

FORM 1, *contd.*

[] Defendant to attend a _____
(name of bail centre)

at the following times and frequency: _____

[] Defendant to remain at the following location:
_____ during the hours of _____.

[] An acceptable surety shall agree to secure the surrender of the defendant into custody or forfeit the sum of \$ _____

[] Defendant shall surrender into custody at _____
on _____

[] Defendant to inform the Court if he intends to leave Jamaica.

[] Other (specify) _____

Next appearing before: _____
(Name of Court)

Signature of decision maker:

Date:

Decision maker: (Check applicable description)

[] police officer _____
(state name and rank)

[] Justice of the Peace _____
(state name and parish)

[] Court _____
(state name of Judge and Court)

FORM 2

(Regulation 6 (2))

Declaration by Justice of the Peace, Member of the Jamaica Constabulary Force, Minister of Religion or Principal of an educational institution, pursuant to section 17 (3) of the Act.

I _____ of _____

hereby declare that:

- (a) I am a Justice of the Peace/member of the Jamaica Constabulary Force/Minister of Religion/Principal of _____

(name if educational institution)

- (b) _____ has offered himself/
herself as surety for _____ defendant
in the case R.v. _____.

- (c) I have been acquainted with the surety for _____ years.

- (d) The nature of my acquaintance with the surety is:

- (e) To the best of my knowledge, the surety resides at:

- (f) I regard him/her as a responsible person of good character who is likely to fulfill his obligations as a surety;

I am aware that if I make, in this declaration, any statement that I know to be false in a material particular, I am liable to a fine not exceeding Three Million Dollars or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

Signed _____

This _____ day of _____, 200 .

FORM 3

(Regulation 8 (2))

Notice of requirement to attend bail centre

Notice is hereby given that _____ of _____

is required to attend at _____

(name of bail centre)

during the period _____

(state time and frequency of attendance required)

Particulars of attendee

Offence charged:

(photograph of
attendee) **

Bail granted by*: _____

(name of officer or Court)

*You are required to inform this Court or officer within twenty-four hours if the attendee fails to attend at this bail centre.

**The reverse shall be endorsed with a statement indicating that it is a true photograph of the attendee, signed by an Attorney-at-Law, Justice of the Peace, Police Officer not below the rank of Sergeant, Minister of Religion or a Principal of an educational institution other than a pre-primary school.

FORM 4

(Regulation 10 (1))

Application by surety for release

Name of defendant: _____

Address: _____

Offence (s): _____

Name of surety: _____

Address: _____

Telephone No. _____

Application is made, under section 19 of the Bail Act to the _____, being
(name of Court)the Court before which recognizance was taken by the abovementioned surety for said surety to
be released from his obligations under the recognizance entered into by him on _____.
(date)

Grounds for application:

Signature of surety: _____

Date: _____

FORM 5

(Regulation 10 (2))

Notice of Release of Surety

Date: _____

Name of Defendant: _____

Address: _____

Offence (s): _____

Name of Surety: _____

Address: _____

Notice is hereby given that, pursuant to an application under 19 of the Bail Act, made before

the _____ on _____, the
(name of Court) (date of application)abovementioned surety has been granted release from his obligations under the recognizance
entered into by him on _____.
(date)

Signature of Judge/Resident Magistrate _____

Dated this 27th day of September, 2001.

K. D. KNIGHT,
Minister of National Security and Justice.