



ANGUILLA

A BILL FOR
BAIL ACT, 2025

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I Assent

Julia Crouch
Governor

Date

ANGUILLA

No. XX/2025

BAIL ACT, 2025

[Gazette Dated: , 2025] [Commencement: Section 28]

An Act to make provisions in relation to bail in or in connection with criminal proceedings; and to make provision for connected matters.

ENACTED by the Legislature of Anguilla

PRELIMINARY

Interpretation

1. In this Act, unless the context indicates otherwise—

“adult” means a person who is 18 years or older;

“bail” has the meaning assigned by section 2(2);

“bail centre” means any facility declared by the Governor pursuant to section 24 to be a bail centre for the purposes of this Act;

“bail in criminal proceedings” has the meaning assigned by section 2(1);

“child” means a person under the age of 18 years;

“conviction” includes—

(a) a finding of guilt;

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

- (c) a conviction of an offence for which an order is made placing the offender on probation or discharging him absolutely or conditionally,

and “convicted” shall be construed accordingly.

“Court” includes a Judge or a Magistrate;

“electronic monitor” means an item of electronic monitoring equipment;

“electronic monitoring” means a remote method of monitoring a person’s whereabouts using an electronic monitor;

“electronic monitoring equipment” means any equipment or device suitable to be used for monitoring the movements and location of a person on whose body it is fitted;

“electronic monitoring order” means an electronic compliance monitoring order referred to in section 4(5)(f);

“Judge” means a Judge of the High Court or the Court of Appeal;

“legal practitioner” has the meaning assigned to it by section 1 of the Legal Profession Act;

“Magistrate” includes the Senior Magistrate;

“offence” includes an alleged offence;

“police officer” means an arresting officer or an officer or special constable in charge of a police station or lock up;

“proceedings against a fugitive offender” means proceedings under the Extradition Act 2003 (Overseas Territories) Order 2016 or any other enactment providing for the extradition of fugitive offenders;

“regulations” means regulations made under section 26;

“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 (according to the requirements of the grant of bail) at the time and place for the time being appointed for him to do so;

“the normal powers to impose conditions of bail” has the meaning assigned by section 4(4);

“vary”, in relation to bail, means imposing further conditions after bail is granted, or varying or rescinding conditions imposed in relation to the grant of bail.

Meaning of “bail” and “bail in criminal proceedings”

2. (1) In this Act “bail in criminal proceedings” means bail which may be granted—

- (a) in or in connection with proceedings for an offence to a person who is accused or convicted of the offence; or

- (b) in connection with an offence to a person who is under arrest for the offence or for whose arrest for the offence a warrant (endorsed for bail) is being issued.

(2) In this Act “bail” means bail grantable under the law (including common law) for the time being in force.

(3) This section does not apply to bail in, or in connection with, criminal proceedings outside Anguilla.

(4) This section applies—

- (a) whether the offence was committed in Anguilla or elsewhere; and
- (b) whether it is an offence under the law of Anguilla, or of any other country or territory.

(5) Bail in criminal proceedings shall be granted (and in particular shall be granted unconditionally or conditionally) in accordance with this Act.

Interpretation – supplementary

3. (1) Where an enactment (whenever passed) 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.

(2) Any reference in this Act to any other enactment is a reference thereto as amended, and includes a reference thereto as extended or applied, by or under any other enactment, including this Act.

INCIDENTS OF BAIL IN CRIMINAL PROCEEDINGS

General provisions

4. (1) A person granted bail in criminal proceedings shall be under a duty to surrender to custody, and that duty is enforceable in accordance with section 17.

(2) Except as provided by this section—

- (a) no recognisance for his surrender to custody shall be taken from him;
- (b) no security for his surrender to custody shall be taken from him;
- (c) he shall not be required to provide a surety or sureties for his surrender to custody; and
- (d) no other requirement shall be imposed on him as a condition of bail.

(3) A Court or police officer may, in accordance with any regulations, require any person to whom bail is granted to provide, at the person’s option, as a condition for bail before his release—

- (a) a surety or sureties to secure his surrender to custody; or
- (b) a payment of such amount as may be specified.

(4) A person to whom bail is granted may be required to comply, before release on bail or later, with such requirements as appear to the Court to be necessary to secure that—

- (a) he surrenders to custody;
- (b) he does not commit an offence while on bail;
- (c) he does not interfere with witnesses or otherwise obstruct the course of justice whether in relation to himself or any other person;
- (d) he makes himself available for the purpose of enabling inquiries or a report to be made to assist the Court in dealing with him for the offence;

and, in this Act, “the normal powers to impose conditions of bail” means the powers to impose conditions under paragraph (a), (b) or (c).

(5) The requirements referred to in subsection (4) may include—

- (a) an obligation to surrender his travel documents to the Court;
- (b) an obligation to inform the Court if he intends to leave Anguilla;
- (c) an obligation to report at specified times and dates to a police station;
- (d) the imposition of a curfew, between the hours specified by the Court, requiring the person to remain within a specified locality during the hours so specified;
- (e) the imposition of an exclusion order, requiring the person not to—
 - (i) engage in specified activities,
 - (ii) enter an area or place specified in the order, or
 - (iii) associate with a specified person or class of persons;
- (f) the imposition of an electronic compliance monitoring order requiring the person to submit to electronic monitoring to secure the persons compliance with the requirements specified in paragraphs (d) and (e).

(6) In the case of a person accused of murder, the Judge granting bail may impose as conditions of bail—

- (a) a requirement that the accused shall undergo medical examination for the purpose of enabling such reports to be prepared; and
- (b) a requirement that he shall for that purpose attend such an institution or place as the Court directs and comply with any other directions which may be given to him for that purpose by a medical practitioner.

(7) If a parent or guardian of a child consents to be surety for the child for the purposes of this section, the parent or guardian may be required to secure that the child complies with any requirement imposed on him by virtue of subsection (4), (5) or (6) but—

- (a) no requirement shall be imposed on the parent or the guardian of a child by virtue of this section where it appears that the child will attain the age of 18 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 requirement to which his consent does not extend and shall not, in respect of those requirements to which his consent does extend, be bound in a sum greater than \$50,000.

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

- (a) by or on behalf of the person to whom bail was granted; or
- (b) by the prosecutor or a police officer,

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

(9) This section is subject, in its application to bail granted by a police officer, to section 7.

(10) Where a person has been granted bail in criminal proceedings, bail shall not be revoked unless—

- (a) the person has breached any of the bail conditions;
- (b) the person absconds or attempts to abscond;
- (c) such revocation is otherwise justifiable by virtue of any provision of Schedule 1; or
- (d) the Magistrate's Court or High Court has refused bail following an application made under section 14.

(11) A person charged with—

- (a) murder;
- (b) treason; or
- (c) a firearms offence,

may be granted bail only by a Judge.

(12) In this section “a firearms offence” means any offence under the Firearms Act.

Conditions for imposing electronic monitoring requirements: child

5. (1) The Court may not impose an electronic monitoring order on a child on bail in criminal proceedings unless each of the conditions referred to in subsections (2) to (5) have been satisfied.

(2) The first condition is that the child has attained the age of 12 years.

(3) The second condition is that—

- (a) the child is charged with or has been convicted of—
 - (i) a violent or sexual offence, or
 - (ii) an offence punishable in the case of an adult with imprisonment for a term of 14 years or more; or
- (b) the child is charged with or has been convicted of one or more imprisonable offences and has a recent history of repeatedly committing imprisonable offences while remanded on bail.

(4) The third condition is that the Court is satisfied that the necessary provision for dealing with the child concerned can be made under arrangements for the electronic monitoring of persons released on bail that are currently available in Anguilla.

(5) The fourth condition is that the Department of Social Development has informed the Court that in its opinion the imposition of an electronic monitoring order will be suitable in the case of the child.

Conditions for imposing electronic monitoring requirements: adult

6. (1) A Court may not impose an electronic monitoring order on a person who has attained the age of 18 unless each of the conditions referred to in subsection (2) and (3) are satisfied.

(2) The first condition is that the Court is satisfied that without the electronic monitoring order, the person would not be granted bail.

(3) The second condition is that the Court is satisfied that the necessary provision for dealing with the person concerned can be made under arrangements for the electronic monitoring of persons released on bail that are currently available in Anguilla.

Conditions of bail in case of police bail

7. (1) Section 4 applies, in relation to bail granted by a custody officer under Part 5 of the Police and Criminal Evidence Act, in cases where the normal powers to impose conditions of bail are available to him, subject to the following modifications—

- (a) in subsection (4), the reference to “the Court” shall be construed as a reference to “a custody officer”;
- (b) subsection (6) does not apply;
- (c) the following is substituted for subsection (8)—

“(8) Where a custody officer has granted bail in criminal proceedings he may, at the request of the person to whom it was granted, vary the conditions of bail; and in doing so he may impose conditions or more onerous conditions.”.

(2) Where a police officer grants bail to a person, no conditions shall be imposed under section 4(3), (4) or (7) unless it appears to the police officer that it is necessary to do so—

- (a) to prevent that person from failing to surrender to custody;

- (b) to prevent that person from committing an offence while on bail;
- (c) to prevent that person from interfering with witnesses or otherwise obstructing the course of justice, whether in relation to himself or any other person; or
- (d) for the person's own safety.

(3) Subsection (2) also applies to any request to a custody officer under subsection (8) of section 4 (as substituted by subsection (1) of this section) to vary the conditions of bail.

BAIL FOR ACCUSED PERSONS AND OTHERS

General right to bail of accused persons and others

8. (1) A person to whom this section applies shall be granted bail except as provided in Schedule 1.

(2) This section applies to a person who is accused of an offence when—

- (a) he appears or is brought before the Magistrate's Court or the High Court in the course of or in connection with proceedings for the offence; or
- (b) he applies to a Court for bail or for a variation of the conditions of bail in connection with the proceedings.

(3) Subsection (2) does not apply as respects proceedings on or after a person's conviction of the offence or proceedings against a fugitive offender for the offence.

(4) This section also applies to a person who has been convicted of an offence and whose case is adjourned by the Court for the purpose of enabling inquiries or a report to be made to assist the Court in dealing with him for the offence.

(5) Schedule 1 also has effect as respects conditions of bail for a person to whom this section applies.

(6) In Schedule 1 "the defendant" means a person to whom this section applies and any reference to a defendant whose case is adjourned for inquiries or a report is a reference to a person to whom this section applies by virtue of subsection (4).

(7) In taking any decisions required by Part 1 or Part 2 of Schedule 1, the considerations to which the Court is to have regard include, as far as relevant, any misuse of controlled drugs by the defendant.

(8) In subsection (7) "controlled drugs" has the same meaning as in the Drugs (Prevention of Misuse) Act.

(9) Nothing in this Act shall preclude an application for bail on each occasion that a defendant appears before a Court in relation to the relevant offence.

SUPPLEMENTARY

Supplementary provisions about decisions on bail**9.** (1) Subject to subsection (2), where—

- (a) a Court or police officer grants bail in criminal proceedings; or
- (b) a Court refuses bail in criminal proceedings from a person to whom section 8 applies; or
- (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 or police officer varies any conditions 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 if requested to do so by the person in relation to whom the decision was taken, shall cause him to be given a copy of the record of the decision as soon as practicable after the record is made.

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

(3) Where the Magistrate's Court or the High Court grants bail in criminal proceedings to a person to whom section 8 applies after hearing representations from the prosecutor in favour of refusing bail, then the Court shall give reasons for granting bail.

(4) A Court which is by virtue of subsection (3) required to give reasons for its decision shall include a note of those reasons in the record of its decision and if requested to do so by the prosecutor, shall cause the prosecutor to be given a copy of the record of the decision as soon as practicable after the record is made.

(5) Where the Magistrate's Court or the High Court—

- (a) refuses bail in criminal proceedings; or
- (b) imposes conditions in granting bail in criminal proceedings; or
- (c) varies any conditions of bail or imposes conditions in respect of bail in criminal proceedings,

and does so in relation to a person to whom section 8 applies, then the Court shall, with a view to enabling him to consider making an application in the matter to another Court, give reasons for refusing bail or for imposing or varying the conditions.

(6) A Court which is by virtue of subsection (5) required to give reasons for its decision shall include a note of those reasons in the record of its decision and shall (except in a case where, by virtue of subsection (7), this need not be done) give a copy of that note to the person in relation to whom the decision was taken, or his representative, as soon as practicable after the note is made.

(7) The High Court need not give a copy of the note of the reasons for its decision to the person in relation to whom the decision was taken where that person is represented by a legal practitioner unless his legal practitioner requests the Court to do so.

(8) Where the Magistrate's Court refuses bail in criminal proceedings from a person who is not represented by a legal practitioner, the Court shall inform him that he may apply to the High Court for that purpose.

(9) Where in criminal proceedings the Magistrate's Court remands a person in custody for any purpose after hearing full argument on an application for bail from him and either—

- (a) it has not previously heard such argument on an application for bail from him in those proceedings; or
- (b) it has previously heard full argument from him on such an application but it is satisfied that there has been a change in his circumstances or that new considerations have been placed before it,

it shall be the duty of the Court to issue forthwith a certificate that it has heard full argument on his application for bail before it refused the application.

(10) Where the Court issues a certificate under subsection (9) in a case to which paragraph (b) of that subsection applies, it shall state in the certificate the nature of the change of circumstances or the new considerations which caused it to hear a further fully argued bail application.

(11) Where a Court issues a certificate under subsection (9) it shall cause the person to whom it refuses bail to be given a copy of the certificate, or his representative, within 24 hours.

(12) This section is subject, in its application to bail granted by a police officer, to section 10.

Supplementary provisions in cases of police bail

10. (1) Section 9 applies, in relation to bail granted by a custody officer under Part 5 of the Police and Criminal Evidence Act in cases where the normal powers to impose conditions of bail are available to him, subject to the following modifications.

(2) Subsections (3) and (4) shall be omitted.

(3) For subsection (5) substitute the following—

“(5) Where a custody officer, in relation: to any person—

- (a) imposes conditions in granting bail in criminal proceedings; or
- (b) varies any conditions of bail or imposes conditions in respect of bail in criminal proceedings;

the custody officer shall, with a view to enabling that person to consider requesting him or another custody officer, or making an application to the Magistrate's Court, to vary the conditions, give reasons for imposing or varying the conditions.”.

(4) For subsection (6) substitute the following—

“(6) A custody officer who is by virtue of subsection (5) required to give reasons for his decision shall include a note of those reasons in the custody record and shall give a copy of that note to the person in relation to whom the decision was taken, or his representative, as soon as practicable after the note is made.”.

(5) Subsections (7) to (12) are omitted.

Review of custody cases

11. (1) Where an application for bail has been refused by a police officer, such refusal shall be reviewed by the Magistrate on the defendant’s first appearance in Court in relation to the relevant offence.

(2) A Magistrate shall carry out, at least once per week, a review of cases involving defendants who were granted bail but were unable to take up such bail.

(3) Where an application for bail has been refused by the Judge in the High Court, and there has been no subsequent applications for bail by the defendant, the Judge shall carry out a period review of the defendant’s case pending trial in the High Court so as to determine whether bail should be granted.

Powers of Judge in the High Court

12. (1) Where a Magistrate’s Court refuses to grant bail in criminal proceedings, or imposes conditions on the grant of bail in criminal proceedings, the Judge in the High Court may, on application made by or on behalf of the defendant concerned, grant or refuse bail or vary the conditions.

(2) In granting bail under subsection (1), the Judge in the High Court may direct the defendant 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) An application made pursuant to subsection (1) must be made on notice to the Attorney General.

Defendant to be informed of right of appeal

13. Where a Magistrate’s Court refuses to grant bail to a defendant who is not represented by a legal practitioner, the Court shall inform him of the right of appeal conferred by section 12.

Reconsideration of decisions granting bail

14. (1) Where the Magistrate’s Court or High Court has granted bail in criminal proceedings in connection with an offence, or proceedings for an offence, to which this section applies or a police officer has granted bail in criminal proceedings in connection with proceedings for such an offence, that Court may, on application by the prosecutor for the decision to be reconsidered—

(a) vary the conditions of bail;

(b) impose conditions in respect of bail which has been granted unconditionally; or

(c) refuse bail.

(2) The offences to which this section applies are offences triable on indictment and offences triable either way.

(3) No application for the reconsideration of a decision under this section shall be made unless it is based on information which was not available to the Court or police officer when the decision to grant bail was taken.

(4) Whether or not the person to whom the application relates appears before it, the Court shall take the decision in accordance with section 8(1) (and Schedule 1).

(5) Where the decision of the Court on a reconsideration under this section is to refuse bail from the person to whom it was originally granted the Court shall—

(a) if that person is before the Court, remand him in custody; and

(b) if that person is not before the Court, order him to surrender himself forthwith into the custody of the Court.

(6) Where a person surrenders himself into the custody of the Court in compliance with an order under subsection (5), the Court shall remand him in custody.

(7) A person who has been ordered to surrender to custody under subsection (5) may be arrested without warrant by a police officer if he fails without reasonable cause to surrender to custody in accordance with the order.

(8) A person arrested in pursuance of subsection (7) shall be brought as soon as practicable, and in any event within 24 hours after his arrest, before a Magistrate and the Magistrate shall remand him in custody.

(9) In reckoning for the purposes of subsection (8) any period of 24 hours, no account shall be taken of any public holiday.

(10) Where the Court, on a reconsideration under this section, decides not to refuse bail from a relevant person after hearing representations from the prosecutor in favour of refusing bail, then the Court shall give reasons for deciding not to refuse bail.

(11) In subsection (10), “relevant person” means a person to whom section 8(1) (and Schedule 1) is applicable in accordance with subsection (4).

(12) A Court which is by virtue of subsection (10) required to give reasons for its decision shall include a note of those reasons in any record of its decision and, if requested to do so by the prosecutor, shall cause the prosecutor to be given a copy of any such record as soon as practicable after the record is made.

(13) Schedule 2 (which provides a procedure on reconsideration of bail) shall have effect.

Bail after conviction

15. (1) A person who was granted bail prior to conviction and who appeals against that conviction may apply to the Judge or the Magistrate before whom he was convicted or a Judge of the Court of Appeal, as the case may be, for bail pending the determination of his appeal.

(2) A person whose application is refused by a Magistrate may appeal against such refusal to the Court of Appeal.

Offence of absconding by person released on bail

16. (1) A person who has been released on bail in criminal proceedings and has failed to surrender to custody in accordance with subsection (2) commits an offence unless he has reasonable cause for his failure to surrender to custody.

(2) A person fails to surrender to custody if he fails to surrender himself at the appointed place and appointed time in accordance with bail conditions imposed by the Court or police officer.

(3) It shall be for the defendant to prove that he had reasonable cause for failure to surrender to custody.

(4) A failure to give the 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.

(5) In any proceedings for an offence under subsection (1), a document purporting to be a copy of any part of the record which relates to the time and place appointed for the person specified in the record to surrender to custody and duly certified 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.

(6) For the purposes of subsection (5)—

- (a) “record” means the record of the decision of the Court or police officer made pursuant to section 9(1);
- (b) “duly certified” means certified by the appropriate officer of the Court, 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 Magistrate,
 - (ii) in the case of the High Court, the Registrar or Deputy Registrar.

(7) A person who commits an offence under subsection (1) is liable on summary conviction before a Magistrate to fine not exceeding \$15,000 or to imprisonment for a term of 2 years.

Liability to arrest for absconding or breaking conditions of bail

17. (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 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; but no warrant shall be issued under this subsection where that person is absent in accordance with leave given to him by or on behalf of the Court.

(3) A person who has been released on bail in criminal proceedings and is under a duty to surrender into the custody of a Court may be arrested without warrant by a police officer—

- (a) where the police officer has reasonable grounds for believing that that person is not likely to surrender to custody;
- (b) where the police officer has reasonable grounds—
 - (i) for believing that that person is likely to break any of the conditions of his bail or
 - (ii) has reasonable grounds for suspecting that that person has broken any of those conditions; or
- (c) in a case where that person was released on bail with one or more surety or sureties, if a surety notifies a police officer in writing that—
 - (i) the person is unlikely to surrender to custody and
 - (ii) for that reason the surety wishes to be relieved of his obligations as a surety.

(4) A person arrested in pursuance of subsection (3)—

- (a) shall, except where he was arrested within 24 hours of the time appointed for him to surrender to custody, be brought as soon as practicable and in any event within 24 hours after his arrest before a Magistrate; and
- (b) in the said excepted case shall be brought before the Court at which he was to have surrendered to custody.

(5) In reckoning for the purposes of subsection (4) any period of 24 hours, no account shall be taken of a public holiday.

(6) 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 breached or is likely to breach any condition of his bail;

the Magistrate may remand him in custody, as the case may require, or alternatively, grant him bail subject to the same or to different conditions.

(7) Where the Magistrate is not of any opinion referred to in subsection (6), the Magistrate shall grant the person bail subject to the same conditions, if any, as were originally imposed.

Offence of removal or tampering with electronic monitor

18. (1) A person who is required to wear an electronic monitor as a condition of bail pursuant to section 4(5)(f) is guilty of an offence if he—

- (a) tampers with the electronic monitor; or
- (b) removes the electronic monitor;
- (c) allows the electronic monitor to be completely depleted of energy.

(2) A person who tampers with or removes an electronic monitor that is being worn by another person who is released on bail is guilty of an offence.

(3) A person who commits an offence under subsections (1) or (2) is liable on summary conviction before a Magistrate to a fine not exceeding \$5,000 or to imprisonment for a term of 2 years or to both such fine and imprisonment.

(4) Where a person has been convicted of an offence under this section the Court may impose a compensation order in addition to a fine or term of imprisonment imposed pursuant to subsection (3).

(5) A compensation order referred to in subsection (4) is an order requiring the convicted person to pay the cost of replacing or repairing the electronic monitor.

(6) Subsections (3) and (4) do not apply where the convicted person is a child.

(7) Where a person has been charged with an offence under subsection (1) the burden shall be on the person on whom it is fitted to prove that he is not responsible for tampering or removing the electronic monitor or allowing it to be completely depleted of energy.

Bail with sureties

19. (1) This section applies where a person is granted bail in criminal proceedings on condition that he provides one or more surety or sureties for the purpose of securing that he surrenders to custody.

(2) In considering the suitability of a proposed surety referred to in subsection (1) regard shall be had to such factors as the Court or police officer think fit, including the surety's—

- (a) profession, occupation, trade or business;
- (b) character and his previous convictions, if any;
- (c) proximity, whether of kinship, place of residence or otherwise, to the person for whom he is to be a surety;

and the surety shall be required to make a declaration in the form set out in Schedule 3.

(3) Where a surety is required, a declaration, substantially in the form prescribed by regulations (if any), as to his knowledge of the surety's address and good character, shall be made by—

- (a) a Justice of the Peace;
- (b) a member of the Royal Anguilla Police Force not below the rank of Sergeant;
- (c) a minister of religion; or
- (d) a principal of an educational institution other than a pre-primary school.

(4) A Court or police officer shall not refuse a surety unless that surety—

- (a) is exempt pursuant to regulations; or
- (b) is, in the opinion of the Court, otherwise unsuitable for the purpose.

(5) Where a Court or police officer grants a person bail in criminal proceedings under subsection (1) but is unable to release the person because no surety or no suitable surety is available—

- (a) the Court or police officer shall fix the amount in which the surety is to be bound; and
- (b) subsections (6) and (7) apply for purpose of enabling the recognisance of the surety to be entered into subsequently.

(6) A recognisance of the surety may be entered into before such persons or description of persons as the Court may by order specify, or, if it makes no such order, before any of the following—

- (a) where the decision is taken by a Magistrate's Court, before any Magistrate;
- (b) where the decision is taken by the High Court or the Court of Appeal, before any Magistrate, the Registrar or where rules of Court provide otherwise, before a person of such other description as is specified in the rules.

(7) Where a surety seeks to enter into his recognisance before any person in accordance with subsection (6) but that person declines to take his recognisance because he is not satisfied as to 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 judge of the High Court or Court of Appeal;

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

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

(9) A person who in any declaration required under this section, makes a statement which he knows to be false in a material particular commits an offence and is liable on summary conviction before a Magistrate to a fine not exceeding \$10,000 or to imprisonment for a term of 2 years or to both such fine and imprisonment.

Bail and failure to obtain sureties

20. Where a person is granted bail under section 19, and that person is unable to obtain the required surety, that person shall be remanded into custody until—

- (a) such Court ordered surety is obtained; or
- (b) final determination of the matter for which bail has been granted.

Forfeiture of security or recognisances

21. (1) Where a surety has provided a security for the purpose of securing a person's surrender to custody and that person fails to surrender to custody, 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) A security which has been ordered to be forfeited under subsection (1) shall—

- (a) where it consists of money, be accounted for and paid in the same manner as a fine imposed by that Court;
- (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 have effect in addition to any other provision in any law relating to enforcement of recognisances entered into in criminal proceedings.

Release of surety or refund of payment

22. (1) A surety shall be released from obligation under the recognisance entered into by him, in the following circumstances—

- (a) where the Court grants such release on an application made in accordance with subsection (2);
- (b) where the Court makes an order discharging the defendant or a *nolle prosequi* or notice of discontinuance is entered in relation to the defendant for whom the surety was provided;
- (c) where the matter in respect of which the surety was provided is adjourned *sine die* or dismissed, as the case may be;

(d) where the defendant concerned is acquitted or convicted, as the case may be.

(2) A surety who wishes to be released from his obligations under a recognisance—

(a) shall apply in writing for such release to the Court by which such recognisance was taken; and

(b) may attend before that Court for the hearing of such application.

(3) Notwithstanding subsection (2), where the defendant for whom the surety was provided is committed to stand trial in the High Court, a surety who wishes to be released from his obligations under a recognisance shall apply in writing to the High Court and attend such court for the hearing of the application.

(4) Where a surety is released, pursuant to subsection (1)(a) the defendant concerned—

(a) shall forthwith be notified of such release; and

(b) shall be taken into custody until he provides another surety or sureties.

(5) Any amount paid pursuant to section 4(3)(b) shall be refunded in any of the circumstances specified in subsection (1)(a) to (d).

(6) If a fine is imposed on conviction of the defendant, any amount paid pursuant to section 4(3)(b) may be applied towards payment of the fine.

Offence of agreeing to indemnify sureties in criminal proceedings

23. (1) If 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 shall be guilty of an offence.

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

(3) A person who commits an offence under subsection (1) is liable on summary conviction before a Magistrate to a fine not exceeding \$10,000 or to imprisonment for a term of 2 years or to both such fine and imprisonment.

(4) No proceedings for an offence under subsection (1) shall be instituted except by or with the consent of the Attorney General.

Declaration of facility as bail centre

24. The Governor acting on the advice of the Attorney General may, by order, declare any facility other than a police station to be a bail centre for the purposes of this Act.

Warrant endorsed for bail

25. (1) A Magistrate or Judge on issuing a warrant for the arrest of any person may grant him bail by endorsing the warrant for bail, that is to say, by endorsing the warrant with a direction in accordance with subsection (2).

(2) A direction for bail endorsed on a warrant under subsection (1) shall in the case of bail in criminal proceedings, 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.

(3) Where a warrant has been endorsed for bail under subsection (1)—

- (a) where the person arrested is to be released on bail on his entering into a recognisance without sureties, it shall not be necessary to take him to a police station, but if he is so taken, he shall be released from custody on his entering into the recognisance; and
- (b) where he is to be released on his entering into a recognisance with sureties, he shall be taken to a police station on his arrest, and the custody officer there shall (subject to his approving any surety tendered in compliance with the endorsement) release him from custody as directed in the endorsement.

MISCELLANEOUS

Regulations

26. (1) The Governor may make regulations generally for giving effect to the provisions and purposes of this Act.

(2) Without restricting the generality of subsection (1) the Governor may make regulations—

- (a) prescribing rules and conditions for the electronic monitoring of persons on bail;
 - (b) concerning the functions of persons who are responsible for the electronic monitoring of persons on bail.
- (3) Regulations made under this section—
- (a) may make different provision in relation to different persons, circumstances or cases; and
 - (b) shall be published by Notice in the *Gazette*.

Repeals, amendments and transitional provisions

27. (1) For each of the laws specified in Schedule 4, the items listed in Column 1 shall be replaced, amended or otherwise dealt with in accordance with the corresponding items in Column 2.

(2) Schedule 5 (transitional provisions) has effect.

Citation and commencement

28. (1) This Act may be cited as the Bail Act 2025 [2025? *Chapter number / reference?*].

(2) This Act shall come into force on such day as the Governor in Council may appoint.

(3) An appointment under subsection (2) shall be by notice published in the *Gazette*.

SCHEDULE 1

(Section 8)

PERSONS ENTITLED TO BAIL: SUPPLEMENTARY PROVISIONS

PART 1

DEFENDANTS ACCUSED OR CONVICTED OF IMPRISONABLE OFFENCES

Defendants to whom Part 1 applies

1. Where the offence or one of the offences of which the defendant is accused or convicted in the proceedings is punishable with imprisonment, the following provisions of this Part of this Schedule apply.

Exceptions to right to bail

2. The defendant need not be granted bail if the offence is—
- (a) treason;
 - (b) murder;
 - (c) an offence under the Firearms Act; or
 - (d) a serious arrestable offence, within the meaning of section 2 of the Police and Criminal Evidence Act, involving the use of a firearm or ammunition, within the meaning of section 1 of the Firearms Act.
3. The defendant need not be granted bail if the Court is satisfied that there are substantial grounds for believing that the defendant, if released on bail (whether subject to conditions or not) would—
- (a) fail to surrender to custody; or
 - (b) commit an offence while on bail; or
 - (c) interfere with witnesses or otherwise obstruct the course of justice, whether in relation to himself or any other person.
4. The defendant need not be granted bail if—
- (a) the offence is an indictable offence or an offence triable either way; and
 - (b) it appears to the Court that he was on bail in criminal proceedings on the date of the offence.
5. The defendant need not be granted bail if the Court is satisfied that the defendant should be kept in custody for his own protection or, if he is a child, for his own welfare.
6. The defendant need not be granted bail if he is in custody in pursuance of the sentence of a Court.
7. The defendant need not be granted bail 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 Part of this Schedule for want of time since the institution of the proceedings against him.
8. The defendant need not be granted bail if, having been released on bail in or in connection with the proceedings for the offence, he has been arrested in pursuance of section 17.

Exception applicable only to defendant whose case is adjourned for inquiries or a report

9. Where his case is adjourned for inquiries or a report, the defendant need not be granted bail if it appears to the Court that it would be impracticable to complete the inquiries or make the report without keeping the defendant in custody.

Restriction of conditions of bail

10. (1) Subject to subparagraph (3), where the defendant is granted bail, no conditions shall be imposed under subsections (3) to (7) of section 4 (except subsection (4)(d)) unless it appears to the Court that it is necessary to do so for the purpose of preventing the occurrence of any of the events mentioned in paragraph 3 of this Part.

(2) No condition shall be imposed under section 4(4)(d) unless it appears to be necessary to do so for the purpose of enabling inquiries or a report to be made.

(3) Subparagraphs (1) and (2) also apply on any application to the Court to vary the conditions of bail or to impose conditions in respect of bail which has been granted unconditionally.

(4) The restriction imposed by subparagraph (2) shall not apply to the conditions required to be imposed under section 4(6).

Decisions under paragraph 3 or 4

11. (1) In taking the decisions required by paragraph 3 or 4 of this Part, the Court shall have regard to such of the following considerations as appear to it to be relevant, that is to say—

- (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 community ties of the defendant;
- (c) the defendant's record as respects 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;
- (e) whether the defendant is a repeat offender, that is to say, a person who has been convicted on three previous occasions for offences which are punishable with imprisonment; or
- (f) any other factor which appears to be relevant including the defendant's health profile.

(2) Where the matter referred to in subparagraph (1)(e) is taken into account in relation to a defendant, the offence to which the bail application relates shall not be tried before the Court which dealt with that application.

PART 2

DEFENDANTS ACCUSED OR CONVICTED OF NON-IMPRISONABLE OFFENCES

Defendants to whom Part 2 applies

1. Where the offence or every offence of which the defendant is accused or convicted in the proceedings is one which is not punishable with imprisonment, the following provisions of this Part of this Schedule apply.

Exceptions to right to bail

2. The defendant need not be granted bail if—
 - (a) 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;
 - (b) the Court believes, in view of that failure, that the defendant, if released on bail (whether subject to conditions or not) would fail to surrender to custody.
3. The defendant need not be granted bail if the Court is satisfied that the defendant should be kept in custody for his own protection or, if he is a child, for his own welfare.
4. The defendant need not be granted bail if he is in custody in pursuance of the sentence of a Court.
5. The defendant need not be granted bail if, having been released on bail in or in connection with the proceedings for the offence, he has been arrested in pursuance of section 17.

PART 3

DECISIONS WHERE BAIL REFUSED ON PREVIOUS HEARING

1. If the Court decides not to grant the defendant bail, it is the Court's duty to consider, at each subsequent hearing while the defendant is a person to whom section 8 applies and remains in custody, whether he ought to be granted bail.
2. At the first hearing after that at which the Court decided not to grant the defendant bail he may support an application for bail with any argument as to fact or law that he desires, whether or not he has advanced that argument previously.
3. At subsequent hearings the Court need not hear arguments as to fact or law which it has heard previously.

PART 4

INTERPRETATION

1. For the purposes of this Schedule the question whether an offence is punishable with imprisonment shall be determined without regard to any enactment prohibiting or restricting the imprisonment of young offenders or first offenders.
2. References in this Schedule to previous grants of bail in criminal proceedings include references to bail granted before the coming into force of this Act and so as respects the reference to an offence committed by a person on bail in relation to any period before the coming into force of paragraph 4 of Part 1.
3. For the purposes of this Schedule references to a defendant being kept in custody or being in custody include, where a defendant is a child, being kept in a safe house under the Child Justice Act.
4. References in this Schedule to "imprisonment" do not include a committal—

- (a) in default of payment of any sum of money;
 - (b) for want of sufficient distress to satisfy any sum of money; or
 - (c) for failure to do or to abstain from doing anything required to be done or left undone.
-

SCHEDULE 2
(Section 14(13))

PROCEDURE ON RECONSIDERATION OF A DECISION TO GRANT BAIL

1. An application under section 14(1) shall—
 - (a) be made in writing;
 - (b) contain a statement of the grounds on which it is made;
 - (c) specify the offence which the proceedings in which bail was granted were connected with, or for;
 - (d) specify the decision to be reconsidered (including any conditions of bail which have been imposed and why they have been imposed); and
 - (e) specify the name and address of any surety provided by the person to whom the application relates to secure his surrender to custody.
2. Where an application has been made under section 14(1)—
 - (a) the Senior Magistrate or the Registrar of the High Court, as the case may be, shall fix the time and place for the hearing of the application; and
 - (b) shall—
 - (i) serve notice of the application and of the date, time and place so fixed on the person affected; and
 - (ii) send a copy of the notice to the prosecutor who made the application and to any surety specified in the application.
3. The time fixed for the hearing shall be not later than 72 hours after receipt of the application.
4. In reckoning for the purpose of paragraph 3 any period of 72 hours, no account shall be taken of any public holiday.
5. Service of a notice to be given under paragraph 2 to the person affected may be effected by delivering it to him.
6. At the hearing of an application under section 14(1)—
 - (a) the Court shall consider any representations made by the person affected (whether in writing or orally) before taking any decision under that section with respect to him; and
 - (b) where the person affected does not appear before the Court, the Court shall not take such a decision unless it is proved to the satisfaction of the Court that the notice required to be given under paragraph 2 was served on him before the hearing.
7. Where the Court proceeds in the absence of the person affected in accordance with paragraph 6—
 - (a) if the decision of the Court is to vary the conditions of bail or impose conditions in respect of bail which has been granted unconditionally, the Senior Magistrate or the Registrar of the High Court, as the case may be, shall notify the person affected in writing;

- (b) if the decision of the Court is to refuse bail, the order of the Court under section 14(5)(b) (surrender to custody) shall be signed by the Magistrate or, as the case may be, the Registrar, issuing it.

8. Service of any of the documents referred to in paragraph 7 may be effected by delivering it to the person to whom it is directed or by leaving it for him with some person at his last known or usual place of abode.

SCHEDULE 3

(Section 19(2))

STATUTORY DECLARATION TO BE MADE BY A SURETY OR SURETIES - FORM

<i>Statutory Declaration to be made by a Surety or Sureties</i>
I/*We 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 R. v}. In this regard I/*we acknowledge to owe to the Crown 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/Registrar/Police Officer (<i>delete as appropriate</i>)
(State property and value thereof, relied on in support of sum specified above).
I /*We hereby declare that 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 Oaths 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 a fine not exceeding \$10,000 or to imprisonment not exceeding 2 years or both. Signed: Declarant/Declarants Declared before me this day of 20 Signed: Magistrate/Registrar/Police Officer (<i>delete as appropriate</i>)

SCHEDULE 4
(Section 27(1))

REPEALS AND AMENDMENTS

Column 1	Column 2
<i>Animals (Diseases and Importation) Act</i>	
Section 18(3)	Repeal.
<i>The Bail Act, Revised Statutes of Anguilla, Chapter B2.</i>	
The whole Act.	Repeal.
<i>Criminal Procedure Act</i>	
Section 75	The following words are inserted at the end of the section: “in accordance with section 14(13) and Schedule 2 of the Bail Act.”
<i>Magistrate’s Code of Procedure Act</i>	
Section 69	Repeal.
Section 70	Repeal.
Section 71	Repeal.

SCHEDULE 5

(Section 27(2))

TRANSITIONAL PROVISIONS

1. (1) Without prejudice to sections 19 and 20 of the Interpretation and General Clauses Act (effect of repeals), nothing in the amendments or repeals effected by section 27 of, and Schedule 4 to, this Act shall affect the application of the enactments repealed thereby in relation to recognisances entered into or security given by persons granted bail before the appointed day and the recognisances of any sureties for them.

(2) Nothing in those amendments or repeals shall, in particular, affect the doing of any of the following things after the appointed day, that is to say—

- (a) the enforcement of the recognisance of such a person in the event of a breach of recognisance after the appointed day;
- (b) the exercise of any power to issue and the execution of a warrant for the arrest of such a person for breach of his recognisance after the appointed day;
- (c) the exercise of any power to enlarge the recognisance of such a person and of any surety for him to a later time in the absence of that person and his surety (if any);
- (d) the exercise of any power to vary any conditions on which a person was granted bail before the appointed day or to reduce the amount in which he or any surety is to be bound or to discharge or dispense with any of the sureties;

and no application shall be made under section 4(8) for the variation of conditions of bail so granted or for the imposition of conditions in respect of bail so granted.

2. Where, before the appointed day, a Court has—

- (a) given a direction that the recognisance of a person to whom it has granted bail may be entered into before another Court or any person; or
- (b) endorsed a warrant for the arrest of a person with a direction that he be released on his entering into such a recognisance as is specified in the endorsement,

the recognisance may be entered into and taken after the appointed day in accordance with the direction and paragraph 1 shall apply to such a recognisance as it applies to a recognisance entered into before the appointed day.

3. Where a person has been granted bail before the appointed day and his recognisance (and that of any surety for him) is conditioned for his appearance before a Court from time to time, then, on his first appearance before a Court after the appointed day the recognisance of that person or any surety for him shall, as directed by the Court, either be discharged or continue in force.

4. In this Schedule “the appointed day” means the day appointed under section 28 of this Act for it to come into force.

Tara Carter
Speaker

Passed by the House of Assembly the day of , 2025

Lenox J. Proctor
Clerk of the House of Assembly

OBJECTS AND REASONS

(The Objects and Reasons do not form part of the Bill)

This Bill seeks to ...