

# **THE BAIL (AMENDMENT) BILL**

(No. III of 2025)

## **Explanatory Memorandum**

The object of this Bill is to amend the Bail Act so as to delimit the respective powers of the Director of Public Prosecutions and those of the Commissioner of Police with regard to matters pertaining to the release on bail of a defendant or detainee in order to bring about certainty in this area of the law.

**2.** Accordingly, the Bill provides that the Commissioner of Police will have the sole discretion not to object to the release on bail of a defendant or detainee before a Court. However, where an application is made before a Court for the release on bail of a defendant or detainee and the Commissioner of Police has the intention to object to such release, he shall seek the advice of the Director of Public Prosecutions thereon and the decision to object or not to object to such release shall rest solely on the Director of Public Prosecutions.

**3.** In addition, the Bill further provides that where a Magistrate orders the release on bail of a defendant or detainee, the power to apply to the Supreme Court for an order setting aside the determination of the Magistrate to release the defendant or detainee on bail shall henceforth rest solely on the Director of Public Prosecutions, in lieu and stead of both the Director of Public Prosecutions and the Commissioner of Police.

**4.** Opportunity has also been taken to clarify some bail-related provisions in the Bail Act.

**G. P. C. GLOVER, S.C.**  
*Attorney-General*

28 February 2025

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## ARRANGEMENT OF CLAUSES

### *Clause*

1. Short title
2. Interpretation
3. Section 2 of principal Act amended
4. New section 3B inserted in principal Act
5. Section 4 of principal Act amended
6. New section 4A inserted in principal Act

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## A BILL

### To amend the Bail Act

ENACTED by the Parliament of Mauritius, as follows –

#### **1. Short title**

This Act may be cited as the Bail (Amendment) Act 2025.

#### **2. Interpretation**

In this Act –

“principal Act” means the Bail Act.

#### **3. Section 2 of principal Act amended**

Section 2 of the principal Act is amended by deleting the definition of “detainee” and replacing it by the following definition –

“detainee” means a person who is under arrest and is provisionally charged before a Court;

#### **4. New section 3B inserted in principal Act**

The principal Act is amended by inserting, after section 3A, the following new section –

### **3B. Objection to release on bail before Court**

(1) After a person has been provisionally charged before a Court, the Commissioner of Police may, or may not object, to the release on bail of that person before that Court.

(2) Where, on an application for the release on bail of a defendant or detainee is made before a Court, the Commissioner of Police –

- (a) may not object to the release on bail of the defendant or detainee; or
- (b) has the intention to object to the release on bail of the defendant or detainee on any of the grounds specified in section 4, he shall seek the advice of the Director of Public Prosecutions thereon and the decision to object or not to object to such release shall rest solely on the Director of Public Prosecutions.

### **5. Section 4 of principal Act amended**

Section 4 of the principal Act is amended –

(a) by repealing subsections (3) and (4) and replacing them by the following subsections –

(3) Where an application for the release on bail of a defendant or detainee is refused, the Court shall place on record the written reasons for its determination.

(4) A defendant or detainee whose release on bail is refused under this section shall be remanded in custody for a period not exceeding 21 days, after which the defendant or detainee shall be brought again before the Court.

(b) by repealing subsections 5, 6 and 7.

### **6. New section 4A inserted in principal Act**

The principal Act is amended by inserting, after section 4, the following new section –

#### **4A. Application against release on bail**

(1) (a) Where, immediately after ordering the release on bail

of a defendant or detainee, the Court is notified by the Director of Public Prosecutions or, by the Commissioner of Police on the advice of the Director of Public Prosecutions, that an application under subsection (2) is being made before the Supreme Court and that a stay of execution is required, the Court shall stay execution of the order and remand the defendant or detainee until the Supreme Court determines the application.

(b) Where a defendant or detainee is remanded by the Court under paragraph (a) and the Director of Public Prosecutions fails to apply to the Supreme Court not later than 7 days under subsection (2), the defendant or detainee shall, on the next day following the expiry of the 7-day period, be brought before the Court who shall thereupon release him on bail as originally ordered by the Court.

(2) Notwithstanding an order for stay of execution having been sought under subsection (1)(a), the Director of Public Prosecutions may, not later than 7 days of the determination of the Magistrate, apply to the Supreme Court for an order setting aside the determination of the Magistrate to the release on bail of the defendant or detainee.

(3) The Supreme Court may, where a defendant or detainee has been released on bail and no stay of execution has been sought under subsection (1)(a), on motion made by the Director of the Public Prosecutions, order that the determination of the Magistrate be stayed and that the defendant or detainee be apprehended and remanded in custody pending the determination of an application made before the Supreme Court under subsection (2).

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