

THE BAIL (AMENDMENT) ACT 2025

Act No. 4 of 2025

I assent

DHARAMBEER GOKHOOL, G.C.S.K

President of the Republic of Mauritius

26th March 2025

ARRANGEMENT OF SECTIONS

Section

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

An Act

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 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).

Passed by the National Assembly on the twenty fifth day of March two thousand and twenty five.

Navin Gopall

Acting Clerk of the National Assembly
