

THE SUPREME COURT OF JUDICATURE (AMENDMENT)
BILL, 2001

Arrangement of Clauses

Clause

1. Short title
2. Act inconsistent with Constitution
3. Interpretation
4. Section 59 amended
5. Heading to Part IIIB amended
6. Section 65F amended
7. Section 65E amended
8. Section 65H amended

*Legal Supplement Part C to the "Trinidad and Tobago Gazette", Vol. 40,
No. 136, 18th July, 2001*

No. 13 of 2001

First Session Sixth Parliament Republic of Trinidad
and Tobago

SENATE

BILL

AN ACT to amend the Supreme Court of Judicature Act,
Chap. 4:01.

THE SUPREME COURT OF JUDICATURE (AMENDMENT)
BILL, 2001

Explanatory Note

(These notes form no part of the Bill, but are intended only to indicate its general purport)

The main purpose of this Bill is to amend the Supreme Court of Judicature Act, Chap. 4:01, to allow the State the right to file an appeal to the Court of Appeal against a decision by a trial judge to set free, on any ground, a defendant charged for an indictable offence, to provide for the expeditious hearing of such an appeal, and to grant bail to such a person after a specified period. The Bill requires a three-fifths majority vote.

Clause 1 would provide the short title of the Act, for which this is the Bill.

Clause 2 seeks to provide that the Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution.

Clause 3 seeks to provide the interpretation provision.

Clause 4 seeks to amend section 59 of the Act to allow the Court of Appeal to grant bail to a respondent to an appeal filed by the State under the Act.

Clause 5 seeks to provide for a consequential amendment.

Clause 6 seeks to amend section 65E to extend the grounds of appeal.

Clause 7 seeks to amend section 65F to provide a time-frame within which the State must appeal and the Court of Appeal must hear the appeal, failing which the respondent is entitled to bail, subject to certain conditions for his release as the Court may wish to impose.

Clause 8 seeks to provide for a consequential amendment.

BILL

AN ACT to amend the Supreme Court of Judicature Act,
Chap. 4:01

[, 2001]

WHEREAS it is enacted by section 13(1) of the ^{Preamble} Constitution that an Act of Parliament to which that section applies may expressly declare that it shall have

effect even though inconsistent with sections 4 and 5 of the Constitution and, if any Act does so declare, it shall have effect accordingly:

And whereas it is provided in 13(2) of the Constitution that an Act of Parliament to which that section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of the House:

And whereas it is necessary and expedient that this Act shall have effect notwithstanding sections 4 and 5 of the Constitution.

Enactment	ENACTED by the Parliament of Trinidad and Tobago as follows:—
Short title	1. This Act may be cited as the Supreme Court of Judicature (Amendment) Act, 2001.
Act inconsistent with Constitution	2. This Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution.
Interpretation Chap: 4:01	3. In this Act, “the Act” means the supreme Court of Judicature Act.
Section 59 amended	4. Section 59 of the Act is amended in paragraph (e) by inserting after the words “to an appellant” the words “or respondent”.
Heading to PART IIIB amended	5. The Act is amended by deleting the words “DIRECTOR OF PUBLIC PROSECUTIONS” appearing in the heading to PART IIIB and substituting the word “STATE”.
Section 65E amended	6. Section 65E of the Act is amended— (a) by deleting the words “Director of Public Prosecutions” in the marginal note and substituting the word “State”;

(b) in subsection (1)—

- (i) by deleting the words “Section 63 notwithstanding, the Director of Public Prosecutions” and substituting the words “Notwithstanding section 63, the State”;
- (ii) by deleting the full stop at the end of paragraph *(b)* and inserting the words “; and”; and
- (iii) by inserting after paragraph *(b)* the following new paragraph:

“ *(c)* against a decision or judgement of a trial judge in proceedings by indictment to quash or stay the indictment whether before or during the proceedings on any ground.”;

(c) in subsection (2), by inserting after the word “judgement”, the words “, decision”.

7. Section 65F of the Act is amended—

Section 65F amended

(a) in subsection (1), by deleting the words “Director of Public Prosecutions”, “he” and “his” and substituting the words “State”, “it” and “its” respectively;

(b) by inserting after subsection (2), the following subsections:

“ (3) Where the State intends to file an appeal to the Court of Appeal under section 65E(1), oral notice of appeal shall be given to the trial judge immediately upon the giving of his

decision or judgement and he shall, if he is satisfied that—

- (a) there are substantial grounds for believing that the respondent, if released on bail would—
 - (i) fail to surrender to custody;
 - (ii) commit an offence while on bail; or
 - (iii) interfere with witnesses or otherwise obstruct the course of justice, whether in relation to himself or any other person;
- (b) he should be kept in custody for his own protection; or
- (c) it has not been practicable to obtain sufficient information for the purpose of taking any decision required by this Act for want of time,

issue a committal order against the respondent who shall be kept in custody for not longer than six days.

(4) Where under subsection (3), the State has given oral notice of appeal, the written notice of appeal shall be filed not later than one day after the oral notice is given.

(5) The Court of Appeal shall, within four days of the filing of the notice of appeal, determine whether the respondent is entitled to bail before it hears and determines the appeal.

(6) Where the Court of Appeal grants bail to the respondent, subsections (7), (8) and (9) shall not apply.

(7) Where the Court of Appeal refuses to grant bail to the respondent, the Court shall make an order for the respondent to be remanded in custody and shall, subject to subsection (8), hear and determine the appeal within seven days from the date the notice of appeal was filed.

(8) Where, for any reason, the Court of Appeal is unable to hear and determine the appeal within the time specified in subsection (7), it shall extend the time for a period of seven days only.

(9) Where the Court of Appeal is unable to hear and determine the appeal after fourteen days from the date the notice of appeal was filed, the Court shall grant bail to the respondent.

(10) Where the Court grants bail to the respondent, whether under subsection (6) or (9), the Court may require him to—

- (a) surrender his passport to the Court;
- (b) inform the Court if he intends to leave the State;
- (c) report at specified times to any police station and inform the Police of his address and any change of address;

(d) give security, as approved by the Registrar, for his surrender to custody,

and comply with any other requirement as appear to the Court to be necessary to ensure that he surrenders to custody.”.

Section 65H amended **8.** Section 65H of the Act is amended in the marginal note by deleting the words “Director of Public Prosecutions” and substituting the word “State”.

Passed in the Senate this day of , 2001.

Clerk of the Senate

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the Senate and at the final vote thereon in the Senate has been supported by the votes of not less than two-thirds of all the Members of the Senate, that is to say by the votes of Senators.

Clerk of the Senate

I confirm the above.

President of the Senate

Passed in the House of Representatives this day of , 2001.

Clerk of the House

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the House of Representatives and at the final vote thereon in the House has been supported by the votes of not less than two-thirds of all the Members of the House, that is to say by the votes of Members of the House.

Clerk of the House

I confirm the above.

Speaker

No. 13 of 2001

FIRST SESSION

SIXTH PARLIAMENT

REPUBLIC OF

TRINIDAD AND TOBAGO

BILL

AN ACT to amend the Supreme Court of
Judicature Act, Chap. 4:01

Received and read the

First time.....

Second time.....

Third time.....
