

**A BILL
ENTITLED**

AN ACT to Amend the Evidence Act.

BE IT ENACTED by The Queen's Most Excellent Majesty,
by and with the advice and consent of the Senate and House of
Representatives of Jamaica, and by the authority of the same, as
follows:-

Short title.

1. This Act may be cited as the Evidence (Amendment) Act, 2020, and shall be read and construed as one with the Evidence Act (hereinafter referred to as the principal Act) and all amendments thereto.

**Insertion of
Part IV in
principal
Act.**

2. The principal Act is amended by deleting the heading "Part IV. *Medical Evidence*", substituting therefor the heading "Part IV. *Evidence of Things Seized*", and inserting next thereafter the following section –

**"Evidence of
things seized.**

50. - (1) Where, by virtue of any law, any thing is seized (with or without a warrant) by a constable on the reasonable grounds that the thing -

- (a) has been obtained by the commission of an offence against any law;
- (b) has been used in the commission of an offence against any law; or
- (c) will afford evidence in respect of the commission of an offence

against any law,
the constable may, as soon as is reasonably
practicable after the seizure, take and retain
either or both of the following –

- (a) a sample of the thing;
- (b) an image (whether in the form of a
video, a photograph, or other digital
image) of the thing.

(2) A sample or image taken under
sub-section (1), of a thing, shall, if
accompanied by a certificate referred to in
subsection (3), be admissible in evidence
and shall have, in the absence of evidence to
the contrary, the same probative force as the
thing would have if the thing had been
proved in the ordinary way.

(3) For the purposes of this section,
in proceedings for the offence concerned, a
signed certificate stating that the person
signing –

- (a) took the sample or image pursuant
to subsection (1);
- (b) is a constable, or took the sample or
image under the direction of a
constable above the rank of
Superintendent; and
- (c) in the case of an image, certifies

that the image is a true image of the thing,

shall be admissible in evidence and, in the absence of evidence to the contrary, is evidence of the statements contained in the certificate, unless the person charged with the offence requires that the person appearing to have signed the certificate be summoned as a witness, in which case that person shall be compellable to give evidence in the same manner as any other witness.

(4) The court having jurisdiction over the matter may, of its own motion or on the application of the prosecution or the person charged, require the person appearing to have signed the certificate to be summoned as a witness for the purposes of this section.

(5) This section is without prejudice to any specific requirements imposed under this Act, or any other law, in respect of evidence of a particular kind.”.

MEMORANDUM OF OBJECTS AND REASONS

A decision has been taken to enact legislation to amend the Evidence Act to provide that, in any case where a thing is seized as evidence –

- (a) a sample or image of the thing may be taken by or under the direction of a constable; and
- (b) for the sample or image, so taken, to be received in evidence and have the same probative force as the thing would have if proved in the ordinary way.

This Bill seeks to give effect to that decision, and is a companion measure to the Bill shortly entitled the Dangerous Drugs (Amendment) Act, 2020.

Delroy Chuck
Minister of Justice