

# ABILL

ENTITLED

AN ACT to Amend the Maritime Drug Trafficking (Suppression) Act to grant the Minister the power to waive Jamaica's right to exercise jurisdiction over Jamaican nationals who are detained on a Jamaican vessel by the law enforcement authorities of a treaty State seaward of any State's territorial sea.

[ ]

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:—

1. This Act may be cited as the Maritime Drug Trafficking (Suppression) (Amendment) Act, 2016, and shall be read and construed as one with the Maritime Drug Trafficking (Suppression) Act (hereinafter referred to as the "principal Act") and all amendments

Short title  
and  
commence-  
ment.

thereto, and shall come into operation on a day to be appointed by the Minister by notice published in the *Gazette*.

“Amendment  
of section  
20 of  
principal  
Act.

2. Section 20 of the principal Act is amended—

- (a) in subsection (2), by deleting the words “other than Jamaica nationals”;
- (b) in subsection (3), by deleting the word “Nothing” and substituting therefor the words “Subject to subsection (2), nothing”;
- (c) by inserting next after subsection (3) the following as subsections (4), (5) and (6)—

“(4) Subject to subsections (5) and (6), in making a decision under subsection (2) in relation to a person found on board the vessel who is a Jamaican national, the Minister shall consider whether or not the waiver of Jamaica’s right to exercise jurisdiction and authorization of the relevant treaty State to enforce its laws against the person—

- (a) is in the interests of the security, defence, international relations or other essential public interest of Jamaica; or
- (b) is in the interests of justice.

(5) The Minister shall, prior to making a decision under subsection (2) in relation to a person found on board the vessel who is a Jamaican national, first obtain the advice in writing of the Attorney-General on the matters set out in paragraphs (a), (b), (c) and (d) of this subsection, and the Minister shall not waive Jamaica’s right to exercise jurisdiction and authorize the relevant treaty State to enforce its laws against the person if the Attorney-General advises the Minister that—

- (a) the relevant treaty State is not likely to give effect to the right of that person not to be denied a fair trial;

- (b) it is likely that the relevant treaty State will not give effect to the right of that person not to be punished, detained or restricted in his personal liberty by reason of his race, place of origin, social class, colour, religion or political opinion;
- (c) the waiver and authorization would contravene the provisions of the Constitution or other law in relation to the person; or
- (d) there is no impediment (whether legal, evidentiary or otherwise) to the effective prosecution of the person if he were to stand trial in Jamaica.

(6) Where an offence in respect of which the relevant treaty State is seeking to enforce its laws against a person referred to in subsection (4) is an offence not punishable with death in Jamaica but which is punishable with death under the law of the treaty relevant State, the Minister shall not waive Jamaica's right to exercise jurisdiction and authorize the relevant treaty State to enforce its laws against the person unless the relevant treaty State gives such assurances as the Minister considers sufficient that the death penalty will not be carried out."

3. Section 21 of the principal Act is amended in subsection (2) by deleting the words "that offender shall be liable to" and substituting therefor the words "subject to section 20(2), that offender may".

Amendment  
of section 21  
of principal  
Act.

Passed in the House of Representatives this 2nd day of September, 2015.

LLOYD B. SMITH  
*Deputy Speaker*

Passed in the Senate this 15th day of January, 2016 with one (1) amendment.

ANGELA BROWN-BURKE  
*Deputy President.*

MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to amend the Maritime Drug Trafficking (Suppression) Act to grant the Minister responsible for national security the power to waive Jamaica's right to exercise jurisdiction over Jamaican nationals who have been detained by law enforcement authorities of a treaty State seaward of any State's territorial sea.

PETER BUNTING, M.P.  
Minister of National Security.



# A BILL

ENTITLED

AN ACT to Amend the Maritime Drug Trafficking (Suppression) Act to grant the Minister the power to waive Jamaica's right to exercise jurisdiction over Jamaican nationals who are detained on a Jamaican vessel by the law enforcement authorities of a treaty State seaward of any State's territorial sea.

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As passed in the Honourable House of Representatives.

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As passed in the Honourable Senate.

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SECTIONS 20 AND 21 OF THE PRINCIPAL ACT  
WHICH IT IS PROPOSED TO AMEND

PART IV—General

20.—(1) Where—

- (a) pursuant to section 5, a foreign vessel of a treaty State is detained seaward of any State's territorial sea by Jamaican law enforcement officials; and
- (b) the treaty State waives its right to exercise jurisdiction over that vessel and authorizes Jamaica to enforce its laws against that vessel, its cargo and any persons found on board,

any offence that may have been committed, in relation to illicit traffic, shall be liable to be tried by a court in Jamaica.

(2) Where pursuant to section 13, a Jamaican vessel is detained seaward of any State's territorial sea by a treaty State, the Minister may waive Jamaica's right to exercise jurisdiction over the vessel and authorize the relevant treaty State to enforce its laws against that vessel, its cargo and persons found on board other than Jamaican nationals.

(3) Nothing in this Act shall be construed as a waiver by Jamaica of its right to exercise jurisdiction over any Jamaican national or as authorizing the relevant treaty State to enforce its laws against any such national.

21.—(1) The laws of Jamaica extend to any offence committed outside of Jamaican waters on a vessel or aircraft registered in Jamaica; and for the purposes of the jurisdiction of any court in Jamaica, the offence shall be treated as if it were committed in the parish in which proceedings are brought.

(2) Where the offence of illicit traffic is committed—

- (a) within the territory of Jamaica or on board a vessel or aircraft which is registered in Jamaica; and
- (b) the alleged offender is—
  - (i) present in Jamaica; or
  - (ii) a Jamaican national,

that offender shall be liable to be tried by a court in Jamaica if that offender is not extradited pursuant to the provisions of the Convention on the ground specified in paragraph (a) or (b) (ii).

