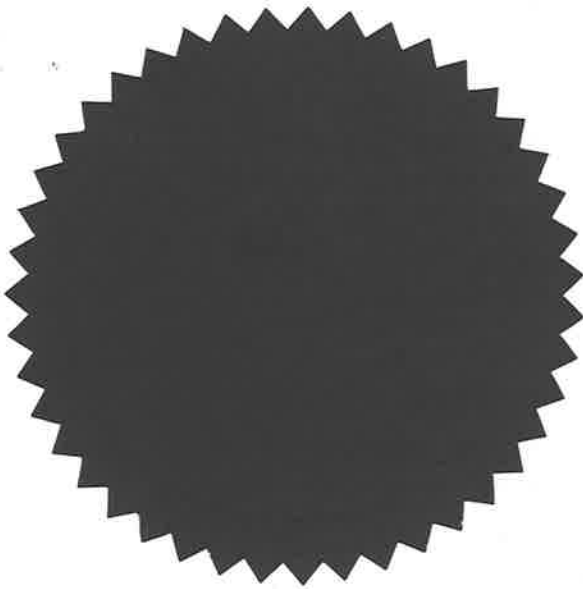


JAMAICA

No. 27— 2021

I assent,



*P. L. Allen*

*Governor-General.*

*23<sup>rd</sup> day of December 2021*

AN ACT to Amend the Corrections Act.

[ *24 December 2021* ]

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 Corrections (Amendment) Act, 2021, and shall be read and construed as one with the Corrections Act (hereinafter referred to as the principal Act) and all amendments thereto.

Short title  
and con-  
struction.

2. The principal Act is amended by deleting the word "money", wherever it appears, and substituting therefor, in each case, the word "cash".

Amendment  
of principal  
Act.

Amendment  
of section 2  
of principal  
Act.

3. Section 2 of the principal Act is amended by—

- (a) renumbering subsection (1) of the section as the section;
- (b) inserting the following definitions in the appropriate alphabetical sequence—

“cash” has the meaning assigned to it under section 55 of the Proceeds of Crime Act;

“computer” means any device or group of interconnected or related devices, one or more of which, pursuant to a program, performs automatic processing of data and includes any data storage facility or device directly connected to or operating in conjunction with such device or group of such interconnected or related devices;

“data” includes—

- (a) material, in whatever form, including voice, text, images, sounds, codes, software and databases;
- (b) the whole or part of a computer program; and
- (c) any representation of information or of concepts in a form suitable for use in a computer, including a program suitable to cause a computer to perform a function;

“electronic” means relating to technology, having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities, and the word “electronically” shall be similarly construed;

“electronic communication device” means a device capable of creating, generating, sending, receiving, storing, displaying or otherwise processing data;

“function” includes logic, control, arithmetic, command, deletion, storage, retrieval, and communication to,

from or within a computer or an electronic communication device;

“intercept” includes listening to or viewing, by use of technical means, or recording, a function of a computer or an electronic communication device, or acquiring the substance, meaning or purport of any function;

“program” or “computer program” means data representing instructions or statements that, when executed in a computer, causes the computer to perform a function, and a reference to a program includes any part of that program;” and

(c) in the definition of “prohibited article”—

(i) in paragraph (b), by inserting next after the semicolon the word “or”; and

(ii) by inserting next after paragraph (b) the following paragraph—

“(c) any computer or electronic communication device;”.

4. Section 13 of the principal Act is amended by—

(a) renumbering the section as subsection (1) of the section;

(b) deleting all the words after paragraph (c) and substituting therefor the words “commits an offence.”; and

(c) inserting next after subsection (1) as renumbered, the following subsection—

“(2) A person who commits an offence under subsection (1) shall be liable—

(a) on summary conviction in a Parish Court, to a fine not exceeding three million dollars or to a term of imprisonment not exceeding three years, or to both such fine and imprisonment; or

Amendment  
of section  
13 of  
principal  
Act.

- (b) on conviction in a Circuit Court, to a fine or to a term of imprisonment not exceeding five years, or to both such fine and imprisonment.”.

Amendment of section 34 of principal Act.

**5.** Section 34 of the principal Act is amended by—

- (a) renumbering the section as subsection (1) of the section; and
- (b) inserting next after subsection (1), as renumbered, the following subsection—

“(2) An inmate may have access to, or use or possession of, a prohibited article if authorized under the Correctional Institution Rules.”.

Amendment of section 35 of principal Act.

**6.** Section 35(4) of the principal Act is amended—

- (a) in paragraph (g), by deleting the word “and”; and
- (b) by inserting next after paragraph (g) the following paragraph—

“(h) unauthorized access to, or use or possession of, a prohibited article; and”.

Insertion of new section 38A in principal Act.

**7.** The principal Act is amended by inserting next after section 38 the following section—

“Confiscation of prohibited articles. 38A. A prohibited article found secreted by or on an inmate, or within a correctional institution shall be confiscated by the Superintendent and dealt with in accordance with the Correctional Institution Rules.”.

Amendment of section 80 of principal Act.

**8.** Section 80 of the principal Act is amended—

- (a) by renumbering the section as subsection (1) of the section;
- (b) in paragraphs (a) to (c), by deleting the last instance of the word “or” in each case;
- (c) by deleting all the words after paragraph (e) and substituting therefor the words “commits an offence.”; and

(d) by inserting next after subsection (1), as renumbered, the following subsection—

“(2) A person who commits an offence under subsection (1) is liable—

- (a) on summary conviction in a Parish Court, to a fine not exceeding three million dollars or to a term of imprisonment not exceeding three years, or to both such fine and imprisonment; or
- (b) on conviction in a Circuit Court, to a fine or to a term of imprisonment not exceeding five years, or to both such fine and imprisonment.”

9. The principal Act is amended by inserting next after section 80 the following sections—

“Prohibited access, use, etc. of computer or electronic communication device by inmate.

80A.—(1) Every inmate who—

- (a) without lawful authority—
  - (i) has access to, or use or possession of, a computer or an electronic communication device; or
  - (ii) transmits or causes the transmission of any data, using a computer or an electronic communication device; or
- (b) notwithstanding any lawful authority to have access to, or use or possession of, a computer or an electronic communication device—
  - (i) tampers with a computer or an electronic communication device; or

Insertion of new sections 80A and 80B in principal Act.

- (ii) intercepts or causes the interception of any function of a computer or an electronic communication device,

commits an offence.

(2) An inmate who commits an offence under subsection (1) is liable—

- (a) on summary conviction in a Parish Court in the case of—

- (i) a first offence, to a fine not exceeding three million dollars or to a term of imprisonment not exceeding three years or to both such fine and imprisonment; or
- (ii) a second or subsequent offence, to a fine not exceeding five million dollars or to a term of imprisonment not exceeding five years or to both such fine and imprisonment; or

- (b) on conviction in a Circuit Court in the case of—

- (i) a first offence, to a fine or to a term of imprisonment not exceeding seven years or to both such fine and imprisonment; or
- (ii) a second or subsequent offence, to a fine or a term of imprisonment not exceeding fifteen years or to both such fine and imprisonment.

Use of  
computer,  
etc.,  
prejudicial to  
safety or  
security,  
prohibited.

80B.—(1) Every person who uses a computer or an electronic communication device to transmit or cause the transmission of any data that prejudices—

- (a) the safety or security of any person inside or outside of a correctional institution;
- (b) the safe custody or security of an inmate; or
- (c) the good order or security of a correctional institution,

commits an offence.

(2) A person who commits an offence under subsection (1) is liable—

- (a) on summary conviction in a Parish Court in the case of—
  - (i) a first offence, to a fine not exceeding three million dollars or to a term of imprisonment not exceeding three years or to both such fine and imprisonment; or
  - (ii) a second or subsequent offence, to a fine not exceeding five million dollars or to a term of imprisonment not exceeding five years or to both such fine and imprisonment; or
- (b) on conviction in a Circuit Court in the case of—
  - (i) a first offence, to a fine or to a term of imprisonment not exceeding fifteen years or to both such fine and imprisonment; or

- (ii) a second or subsequent offence, to a fine or a term of imprisonment not exceeding twenty years or to both such fine and imprisonment.”.

Amendment of section 82 of principal Act.

**10.** Section 82 of the principal Act is amended by—

- (a) renumbering the section as subsection (1) of the section; and
- (b) inserting next after subsection (1), as renumbered, the following subsection—

“ (2) Regulations made under subsection (1) may, in relation to the breach of any of the provisions of those Regulations, provide penalties in excess of the penalty provided in section 29(1)(b) of the Interpretation Act, so, however, that such penalties shall not exceed a fine of three million dollars or imprisonment for a term not exceeding three years.”.

Insertion of new section 82A in principal Act.

**11.** The principal Act is amended by inserting next after section 82 the following section—

“Minister may amend monetary penalties. 82A. The Minister may, by order, subject to affirmative resolution, amend the monetary penalties specified under this Act.”.

Amendment of Correctional Institution (Adult Correctional Centre) Rules, 1991.

**12.** The Correctional Institution (Adult Correctional Centre) Rules, 1991, are amended by—

- (a) deleting the word “money”, wherever it appears, and substituting therefor, in each case, the word “cash”;
- (b) deleting rule 129 and substituting therefor the following rule—

“ 129.—(1) Subject to paragraph (2), no inmate shall have access to, or use or possession of, any prohibited article.

(2) The Commissioner may authorize any inmate or class of inmate to access, use, or be in possession of any prohibited article or class of prohibited article subject to such conditions as the



Commissioner considers necessary to prevent the use thereof to commit any offence or create any security risk whether within or outside of the correctional institution.”; and

(c) deleting rule 132 and inserting therefor the following rules—

“ 132. Cash confiscated by the Superintendent shall be paid to the Accountant-General.

132A.—(1) A computer or an electronic communication device confiscated by the Superintendent shall be handed over to the Commissioner of Police.

(2) Upon receipt of a computer or an electronic communication device handed over under paragraph (1), the Commissioner of Police shall cause an investigation to be conducted to determine the purpose for which it was accessed or used.

(3) The Commissioner of Police shall make a written report to the Commissioner stating the findings of an investigation conducted under paragraph (2).

(4) Where an investigation under paragraph (2)—

(a) reveals that the computer or electronic communication device was used in the commission of an offence, the Commissioner of Police shall store it as evidence for the purposes of criminal proceedings; or

(b) does not reveal that the computer or electronic communication device was used in the commission of an offence, the Commissioner of Police shall, subject to paragraph (6), destroy or dispose of the computer or electronic communication device.

(5) Upon the conclusion of criminal proceedings, including appeals, in which a computer or an electronic communication device stored under paragraph (4)(a) was adduced as evidence, the Director of Public Prosecutions shall apply to the court for an order authorizing the Commissioner of Police to destroy or dispose of the computer or electronic communication device.

(6) The Commissioner of Police shall not destroy or dispose of a computer or an electronic communication device—

- (a) without making the report to the Commissioner required under paragraph (3); and
- (b) where the device is stored under paragraph (4)(a), without an order of the court authorizing the Commissioner of Police to do so.

132B.—(1) Where a prohibited article, other than cash, a computer or an electronic communication device, has been confiscated by the Superintendent, it shall, upon the direction of the Commissioner, having regard to the recommendation of the Superintendent—

- (a) save where the article is perishable, be put in safekeeping at the correctional institution and returned to the inmate upon the inmate's discharge; or
- (b) be destroyed or disposed of in accordance with paragraph (3).

(2) The Superintendent shall make a written recommendation to the Commissioner as to how a prohibited article referred to in paragraph (1) shall be dealt with, having regard to—

- (a) the nature of the prohibited article;

- (b) the likelihood that the prohibited article was used or will be used to—
  - (i) prejudice the life or safety of any person;
  - (ii) facilitate the escape or attempted escape from a correctional institution; or
  - (iii) prejudice the discipline of a correctional institution; and
- (c) the provisions of these Rules.

(3) Upon receipt of a recommendation by the Superintendent, the Commissioner shall—

- (a) accept or reject the recommendation; and
- (b) direct the Superintendent to—
  - (i) put the confiscated prohibited article in safe-keeping at the correctional institution to be returned to the inmate upon the inmate's discharge; or
  - (ii) destroy or dispose of the confiscated prohibited article and specify the manner of such destruction or disposal.

(4) The Superintendent shall not deal with any confiscated prohibited article except in accordance with the Commissioner's directions.

132C. Where a prohibited article has been confiscated under the Act, the Commissioner shall cause to be entered in a register to be kept for such purpose at each correctional institution, a record showing, in respect of each confiscated prohibited article—

- (a) the name of the inmate in relation to whom the discovery was made;

- (b) the date of confiscation;
- (c) the circumstances in relation to the discovery and confiscation of the prohibited article;
- (d) in the case of cash—
  - (i) the amount of cash confiscated; and
  - (ii) the date on which it was handed over to the Accountant-General;
- (e) in the case of a computer or an electronic communication device—
  - (i) a description of the computer or electronic communication device; and
  - (ii) the date on which it was handed over to the Commissioner of Police;
- (f) in the case of a prohibited article other than cash, a computer or an electronic communication device—
  - (i) a description of the prohibited article;
  - (ii) the name of the Superintendent;
  - (iii) the recommendation of the Superintendent and the date on which such recommendation was made;
  - (iv) the terms of the direction of the Commissioner; and

(v) the date on which the prohibited article was put into safe-keeping, destroyed or disposed of; and

(g) any other particulars as the Commissioner may specify.

132D. Where the Commissioner of Police is in receipt of a confiscated computer or electronic communication device, the Commissioner of Police shall cause to be entered in a register to be kept for such purpose, a record showing, in respect of each computer or electronic communication device—

- (a) the name of the inmate in relation to whom the discovery of the computer or electronic communication device was made;
- (b) a description of the computer or electronic communication device;
- (c) the date on which it was received by the Commissioner of Police;
- (d) the date of any order of the court authorizing the Commissioner of Police to destroy or dispose of it; and
- (e) the manner of destruction or disposal of the computer or electronic communication device and the date on which such destruction or disposal was done.

132E. Where a confiscated prohibited article is being destroyed or disposed of under these Rules—

- (a) a police constable shall be present; and
- (b) the legal representative of the inmate may be present.”.

Amendment  
of the  
Finger  
Prints Act.

13. The Second Schedule to the Finger Prints Act is amended by inserting next after item 9 the following item—

“ 10. Any offence against the following sections of the Corrections Act—

- (a) section 80A—(prohibited access, use, *etc.* of computer or electronic communication device by inmate);
- (b) section 80B—(use of computer, *etc.*, prejudicial to safety or security, prohibited).”.

Passed in the House of Representatives this 14th day of December, 2021 with four (4) amendments.

JULIET HOLNESS

*Deputy Speaker.*

Passed in the Senate this 17th day of December, 2021 .

THOMAS TAVARES-FINSON, OJ, CD, QC, JP

*President.*

*This printed impression has been carefully compared by me with the authenticated impression of the foregoing Act, and has been found by me to be a true and correct printed copy of the said Act.*



*Clerk to the Houses of Parliament.*