

## EXPLANATORY MEMORANDUM

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### *Bail (Amendment) Bill, 2019*

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#### **The Preamble**

The Preamble would provide the necessary background and context which makes it necessary for section 13 (3) of the *Constitution* to be amended.

#### **Clause 2**

**Paragraph (a)** is not a substantive provision. It will correct a numbering error since the provisions are sub-paragraphs but are wrongly numbered as paragraphs. The correction will allow for the provisions to be correctly cited.

**Paragraph (b)** provides a new ground which the Court must consider in exercising its discretion to grant or withhold bail.

#### **Clause 3**

Clause 3 provides for the insertion of a new section which restricts the grant of bail to persons charged with serious offences.

##### **Subclause (1)**

This provision prohibits the grant of bail to persons who are charged with any of the offences specified in subsection (1) of the new section 5A until after the expiration of 24 months following the bringing of charges.

##### **Subclause (2)**

This provision provides an exception in the case where a person is charged with the offence of murder if the offence is committed when the person was carrying out his official duties. The provision is widely drafted to prevent an injustice to

any person, including a security guard or a watchman who kills a person when carrying out his lawful duties.

**Subclause (3)**

This provision provides for bail applications for serious offences to be heard by the Chief Justice or by a Judge assigned by Chief Justice.

**Subclause (4)**

This provision modifies the practice and procedure relating to bail so as to facilitate appeals by the prosecution.

**Subclause (5)**

This provision requires the court to give reasons for bail decisions so as to facilitate appeals by the prosecution.

**Subclause (6)**

This provision gives the Prosecution (and not the accused) a new right of appeal to the Court of Appeal.