



THE

# JAMAICA GAZETTE

## EXTRAORDINARY

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The following Notification is, by command of His Excellency the Governor-General, published for general information.

CLAUDINE HEAVEN, JP (MRS.)  
Governor-General's Secretary and  
Clerk to the Privy Council.

### JUDICIAL NOTICE

PRACTICE DIRECTION NO. 21 OF 2021

*Certificate to be Issued where the Court Determines the Prescribed Minimum Penalty to be Manifestly Excessive and Unjust*

WHEREAS section 42K of the Criminal Justice (Administration) (Amendment) Act, 2015 provides for a certificate to be issued where the court determines that having regard to the circumstances of the particular case, the prescribed minimum penalty to be manifestly excessive and unjust, this Practice Direction is issued by the Honourable Chief Justice to make provision for the use of a prescribed format of the certificate and the process to be followed.

1. *Application and Effective Date of this Practice Direction*

This Practice Direction takes effect immediately and applies to Circuit and Gun Court cases presided over by a judge of the Supreme Court of Jamaica.

2. *Prescribed Form*

The certificate is to be in the form as contained in Appendix A to this Practice Direction.

3. Procedure for Issuing

- (a) An application for the certificate to be issued can be made in court at the time of sentencing.
- (b) The certificate is to be completed in triplicate, signed and dated by the presiding judge.
- (c) The certificate is to be collected at the registry or court's office by the Attorney.
- (d) A defendant who seeks leave to appeal on the basis of section 42K must provide the certificate as issued by registry/court's office to the Court of Appeal.

Appendix A

Supreme Court Judge's Certificate pursuant to section 42(K) of the Criminal Justice (Administration) Act

In the Circuit Court for the parish of .....

Holden on the ..... day of ..... 20.....

Before The Honourable M.....Justice.....

Criminal case number.....

Regina vs.....

for.....

WHEREAS the defendant was tried and convicted on the .....day of.....20..... on an indictment charging the defendant with the offence(s) of ..... and was thereafter sentenced by me to .....which is the prescribed minimum penalty:

1. I HEREBY CERTIFY my decision that the prescribed minimum penalty is manifestly unjust having regard to the following circumstances:—

- (a) The defendant's Antecedent Report ( )
- (b) Defendant had no previous conviction ( )
- (c) The facts of the case ( )
- (d) The Social Enquiry Report ( )
- (e) Request by complainant/witness ( )
- (f) The Defendant's age ( )
- (g) The defendant's physical infirmity ( )
- (h) The defendant's mental infirmity ( )
- (i) Time defendant spent on remand pending trial ( )
- (j) Other ( )

[specify]

The reasons for this decision are — (Add an additional sheet as required)

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.....

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2. Based on the circumstances outlined at paragraph 1, had there been no prescribed minimum penalty for this/these offence(s) of..... I would have imposed a sentence of .....

Supreme Court Judge

Dated the ..... day of ..... 20.....

Dated this 24th day of November, 2021.

BRYAN SYKES, OJ, CD  
Chief Justice.