

**BELIZE**

**CRIMINAL PROCEDURE (PLEA DISCUSSION AND PLEA AGREEMENT) BILL, 2024**

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**BELIZE**

**BILL**

**for**

**AN ACT** to provide for the establishment of a system of plea discussions and plea agreements; and to provide for matters connected therewith or incidental thereto.

*(Gazetted ....., 2024)*

**BE IT ENACTED**, by and with the advice and consent of the House of Representatives and Senate of Belize and by the authority of the same, as follows:

**PART I**

*Preliminary*

1. This Act may be cited as the

Short title.

**CRIMINAL PROCEDURE (PLEA DISCUSSION AND PLEA AGREEMENT) ACT, 2024.**

2. In this Act—

Interpretation.

“accused person” means—

(a) a person against whom a complaint is made or an information laid; or

(b) a person against whom an indictment is preferred;

“court” means the High Court or the Magistrate Court;

“Director of Public Prosecutions” means the person appointed under section 50 of the Belize Constitution;

CAP. 4.

“improper inducement” includes—

(a) coercion of an accused person to enter into a plea discussion or conclude a plea agreement;

- (b) fraudulent misrepresentation of a material fact by the prosecutor either before a plea discussion is entered into or during the course of discussion on plea agreement;
- (c) an offer or promise of which the fulfilment of is not the function of the Director of Public Prosecutions; or
- (d) an attempt to persuade the accused person to plead guilty notwithstanding the accused person's denial of guilt;

“Minister” means the Attorney General;

“particular course of action” includes—

- (a) an application to the court to dismiss other charges;
- (b) the withdrawal or discontinuation of the original charge against the accused person;
- (c) the reduction of the charge against the accused person to a lesser offence than that charged;
- (d) a recommendation to the court that a particular sentence is appropriate;
- (e) an undertaking not to oppose a request by the accused person, or the attorney-at-law of the accused person or suspect, for a particular sentence;
- (f) an agreement that a specific sentence is appropriate for the disposal of the case;
- (g) an undertaking not to institute charges against family members or friends of the accused person or suspect where there is evidence to sustain such charges against such persons;
- (h) an undertaking to recommend summary trial rather than trial on indictment; and
- (i) a recommendation to the court that the record of the plea discussion and the plea agreement be sealed;

“plea agreement” means an agreement made in the interest of justice between the prosecutor and the accused person or suspect in which the accused person or suspect agrees to—

- (a) plead guilty to an offence which is disclosed on the facts and on which the charge is based; and
- (b) fulfil any other obligations specified in the plea agreement, and

the prosecutor agrees to take a particular course of action;

“plea agreement hearing” means a hearing in respect of a plea agreement held before a court;

“plea discussion” means a discussion held between a prosecutor and an accused person or a suspect for the purpose of arriving at a plea agreement;

“prosecutor” includes—

- (a) the Director of Public Prosecutions;
- (b) a Crown Counsel in the office of the Director of Public Prosecutions; or
- (c) a police prosecutor whom the Head of Prosecution Branch or Director of Legal Affairs has authorised in writing to engage in a plea discussion or conclude a plea agreement;

“relative” means—

- (a) in relation to the victim—
  - (i) the parent, step-parent or guardian;
  - (ii) the spouse or cohabitant;
  - (iii) the child, step-child or other dependant;
  - (iv) the brother, sister, step-brother, or step-sister;
  - (v) the grandparent; or
  - (vi) any appropriate person who the court determines to be of sufficient proximate relationship, whether by blood or otherwise, to be considered a member of the immediate family of the victim; or

- (b) any other person responsible for the care and support of the victim.

“suspect” means a person whom a police officer, with reasonable cause, suspects has committed an offence, but who is not charged;

“victim” means—

- (a) a person against whom an offence is committed;
- (b) a person who suffers physical, mental or emotional harm or economic loss as a direct result of the commission of an offence against another person; or
- (c) a business that suffers economic loss as a direct result of the commission of an offence; and

“victim impact statement” means a written statement made by a victim which is provided to a prosecutor under Part III.

Application of Act.

**3.**—(1) This Act applies to any plea discussion and plea agreement in respect of all summary and indictable offences.

(2) Nothing in this Act affects the right of the accused person to plead guilty without entering into a plea agreement.

## PART II

### *Plea Discussion*

Plea discussion before conviction.

**4.** A plea discussion may be held and a plea agreement may be concluded at any time before conviction, including before charges are instituted.

Authorisation to engage in a plea discussion or conclude a plea agreement.

**5.** A prosecutor other than the Director of Public Prosecutions shall not engage in a plea discussion or conclude a plea agreement with an accused person or suspect, or where the accused person or suspect is represented by an attorney-at-law, the attorney-at-law of the accused person or suspect unless the prosecutor first obtains written authorisation from the Director of Public Prosecutions or the Head of Prosecution Branch or Director of Legal Affairs, as the case may be.

Prohibition of improper inducement.

**6.** No improper inducement shall be used to encourage an accused person or a suspect to engage in a plea discussion or conclude a plea agreement.



7. A prosecutor shall not initiate or engage in a plea discussion or conclude a plea agreement that requires—

Prohibition against plea discussion in certain circumstances.

- (a) the accused person or suspect to plead guilty to an offence that—
  - (i) is not disclosed by the evidence; or
  - (ii) does not adequately reflect the gravity of the provable conduct of the accused person or suspect unless, in the discretion of the Director of Public Prosecutions, the charge is justifiable having regard to the benefits that will accrue to the administration of justice and the protection of society from the prosecution of the accused person; or
- (b) requires the prosecutor to withhold or distort evidence.

8. Where an accused person or suspect is represented by an attorney-at-law, a prosecutor shall not initiate or engage in any plea discussion with the accused person in the absence of the attorney-at-law of the accused person or suspect.

Plea discussion with represented accused person.

9.—(1) A prosecutor shall not initiate or engage in any plea discussion with an accused person who is not represented by an attorney-at-law unless—

Plea discussion with unrepresented accused person.

- (a) the prosecutor has informed the accused person of the—
  - (i) right to be represented by an attorney-at-law during the plea discussion;
  - (ii) right to protection against self-incrimination;
  - (iii) right to be presumed innocent;
  - (iv) right to remain silent; and
  - (v) option to elect to have a third party of the accused person's choice present during any plea discussion;
- (b) the accused person has informed the prosecutor, in the manner set out in Form 1 of the Schedule, that having been advised by the prosecutor of the matters referred to in paragraph (a), the accused person desires to—
  - (i) enter into a plea discussion; and
  - (ii) represent himself in the plea discussion; and

- (c) the court—
  - (i) has been informed of the matters set out in paragraphs (a) and (b);
  - (ii) is satisfied that the accused person is competent to engage in a plea discussion and conclude a plea agreement; and
  - (iii) approves of the initiation of a plea discussion.

(2) A prosecutor shall not initiate or engage in any plea discussion with a suspect who is not represented by an attorney-at-law unless—

- (a) the prosecutor has informed the suspect of the—
  - (i) right to be represented by an attorney-at-law during the plea discussion;
  - (ii) right to protection against self-incrimination;
  - (iii) right to be presumed innocent;
  - (iv) right to remain silent; and
  - (v) option to elect to have a third party of the accused person's choice present during any plea discussion;
- (b) the suspect has informed the prosecutor, in the manner set out in Form 2 of the Schedule, that having been advised by the prosecutor of the matters referred to in paragraph (a), the suspect desires to—
  - (i) enter into a plea discussion; and
  - (ii) represent himself in the plea discussion.

(3) A prosecutor shall not initiate or engage in any plea discussion with an accused person or suspect who is a child in the absence of a parent or guardian of that child and a social service practitioner.

Prosecutor's  
duty to disclose  
evidence.

**10.—(1)** If a plea discussion is initiated before any charge is laid, the prosecutor shall inform the suspect of the allegations against the suspect and provide the suspect or the attorney-at-law of the suspect with a written summary of the relevant evidence against the suspect, including any evidence

in possession of the prosecutor which materially weakens the case for the prosecution or assists the case for the suspect.

(2) If a plea discussion is initiated after any charge is laid but before the prosecutor tenders evidence implicating the accused person, the prosecutor shall provide the accused person or the attorney-at-law of the accused person with a written summary of the relevant evidence against the accused person, including any evidence in possession of the prosecutor which materially weakens the case for the prosecution or assists the case for the accused person.

(3) Nothing in sub-sections (1) or (2) shall be construed as requiring the prosecutor to disclose—

- (a) all of the evidence supporting the case of the prosecution; or
- (b) the names of witnesses or any other information by which the witness may be identified,

if the prosecutor is reasonably of the view that such information should not be disclosed at that stage and the suspect or accused person is not thereby misled or prejudiced.

**11.—(1)** Upon the first appearance of an accused person before the court, whether the accused person is represented by an attorney-at-law or not, the court shall advise the accused person of the right to—

Procedure at the first appearance of an accused person.

- (a) engage in a plea discussion with the prosecutor and to be represented by an attorney-at-law during the plea discussion; and
- (b) enter into a plea discussion with the prosecutor under section 9 if the accused person does not wish to be represented by an attorney-at-law.

### PART III

#### *Victim Impact Statement*

**12.—(1)** Every victim may provide a victim impact statement explaining the physical or emotional harm, financial loss, or other impact that the offence has had on the victim.

Victim impact statement.

(2) Before a plea discussion is concluded, the prosecutor shall inform the victim—

- (a) that a victim impact statement may be provided; and

(b) of the restrictions specified in section 13 with respect to the content of the victim impact statement.

(3) A prosecutor who concludes a plea agreement with an accused person or a suspect shall ensure that the victim is informed—

(a) of the substance and reasons for the plea agreement unless compelling reasons, including the likelihood of serious harm to the accused person, suspect or another person, require otherwise;

(b) of the date of the plea agreement hearing and the right of the victim to attend all stages of the hearing and to be heard at the hearing; and

(c) that the victim impact statement may be read in court by the victim or the prosecutor or an officer of the court if the victim does not wish to read the victim impact statement.

Restriction on the content of a victim impact statement.

**13.** A victim impact statement shall not include—

(a) a restatement of the facts of the offence;

(b) criticisms about the accused person; or

(c) the opinion of the victim about the type or severity of sentence to be imposed.

Victim impact statement may be made by a relative of the victim.

**14.—(1)** A relative of the victim may provide a victim impact statement on behalf of the victim at any time before a court imposes a sentence if the victim—

(a) has died;

(b) is ill or otherwise incapacitated; or

(c) cannot be found.

(2) The prosecutor shall—

(a) advise the relatives of the victim that they are entitled to make a victim impact statement of the effect of the crime on the victim; and

- (b) communicate with the relatives of the victim in respect of the matters set out in sections 12 and 13.

**15.** Where the victim is a child—

Victims under fourteen years of age.

- (a) under the age of fourteen years, a parent or guardian or, where the parent or guardian cannot be located, the person who has custody of the victim or who is responsible for the care and support of the victim may make a victim impact statement on behalf of the victim; or
- (b) who has attained the age of fourteen years, the victim and a parent or guardian or, where a parent or guardian cannot be located, the person who has custody of the victim or who is responsible for the care and support of the victim may make a victim impact statement on behalf of the victim.

**16.** If the victim is a business, a duly authorised representative of the business may provide a victim impact statement in the form set out in Form 3 of the Schedule.

Victim impact statement by a business. Schedule.

**17.—(1)** The prosecutor shall ensure that a victim impact statement complies with the requirements of section 13.

Duties of the prosecutor in respect of victim impact statements Schedule.

(2) If a victim impact statement contains material that is not permitted under section 13, the prosecutor shall redact that material from the victim impact statement before it is filed with the court.

(3) After receiving the victim impact statement, the prosecutor shall serve the victim impact statement on the accused person or the attorney-at-law of the accused person as soon as it is reasonably practicable to do so and, in any event, before it is filed with the court.

(4) The prosecutor shall file the victim impact statement with the court at the time of filing the plea agreement.

**18.** The failure of the prosecutor to obtain a victim impact statement from the victim or any relative of the victim shall not invalidate a plea agreement.

Failure to obtain victim impact statement.

## PART IV

### *Plea Agreement and Plea Agreement Hearings*

**19.—(1)** A plea agreement which has been concluded between a prosecutor and the attorney-at-law of an accused person or a suspect shall be in the manner set out in Form 4 of the Schedule.

Form and filing of a plea agreement with a represented accused person.

(2) Where an accused person is before the Magistrate Court, the plea agreement shall be filed with the Clerk of Court, along with the following documents—

- (a) a statement by the accused person in the manner set out in Form 5 of the Schedule;
- (b) a statement by the attorney-at-law of the accused person, if any, in the manner set out in Form 6 of the Schedule;
- (c) if a Court Interpreter was used during the plea discussion, a certificate, in the manner set out in Form 7 of the Schedule, as to the accuracy of the interpretation during the plea discussion and the accuracy of the translation of the plea agreement;
- (d) a victim impact statement, if any; and
- (e) the complaint or draft indictment in the case of committal proceedings.

(3) Where an accused person is before the High Court, the plea agreement shall be filed with the Registrar of the High Court along with the documents referred to in sub-section (2)(a) to (d) and the indictment.

Form and filing of a plea agreement with an unrepresented person.

**20.**—(1) A plea agreement which has been concluded between a prosecutor and an unrepresented accused person or suspect shall be in the manner set out in Form 8 of the Schedule and shall be signed by the prosecutor and accused person in the presence of a Justice of Peace.

(2) Where an unrepresented accused person is before the Magistrate Court, the plea agreement shall be filed with the Clerk of Court, along with the following documents—

- (a) a statement by the accused person in the manner set out in Form 9 of the Schedule;
- (b) if a Court Interpreter was used during the plea discussion, a certificate, in the manner set out in Form 7 of the Schedule, as to the accuracy of the interpretation during the plea discussion and the accuracy of the translation of the plea agreement; and
- (c) a victim impact statement, if any; and

(d) the complaint or draft indictment in the case of committal proceedings.

(3) Where an accused person is before the High Court, the plea agreement shall be filed with the Registrar of the High Court along with the documents referred to in sub-section (2)(a) to (c) and the indictment.

**21.** Upon filing the plea agreement, the Registrar or Clerk of Court, as the case may be, shall set down the matter for a plea agreement hearing.

Setting down matter for plea agreement hearing.

**22.**—(1) If a plea agreement is filed at any time before an accused person is committed to stand trial in the High Court, the magistrate shall—

Plea agreements at committal proceedings.

(a) cease conduct of the committal proceedings, if proceedings have commenced;

(b) transfer the matter to the High Court for a plea agreement hearing; and

(c) within fourteen days of transferring a matter under paragraph (b), forward the following documents to the High Court—

(i) all documents filed under section 19(2) or 20(2);

(ii) witness statements, if any;

(iii) documentary exhibits; and

(iv) any other documents filed during the conduct of the committal proceedings.

(2) Where a magistrate transfers a matter under sub-section (1)(b), the magistrate may grant bail to the accused person.

(3) Within fourteen days of receiving the documents forwarded by a magistrate under sub-section (1)(c), the matter shall be listed for a plea agreement hearing before the court.

**23.** Notwithstanding any other law to the contrary, if a plea agreement is filed before the commencement or conclusion of committal proceedings, the Director of Public Prosecutions shall prefer an indictment and file the indictment with the Registrar within fourteen days of the date that the matter is transferred under section 22(1)(b).

Director of Public Prosecutions to prefer indictments.

**24.**—(1) A plea agreement hearing shall be held in open court unless, having taken into consideration all of the circumstances, the court considers that the hearing should be held in camera.

Procedure at plea agreement hearing.

(2) The prosecutor shall disclose to the court in the presence of the attorney-at-law of the accused person or, where the accused is unrepresented, in the presence of the accused—

- (a) the substance of, and reasons for, the plea agreement;
- (b) whether a previous plea agreement has been disclosed to another judge or magistrate in connection with the same matter and the substance of that plea agreement, if any;
- (c) if a victim impact statement is filed, whether the victim would like to read the victim impact statement in open court or have the statement read by the prosecutor or an officer of the court; and
- (d) if a victim impact statement is not filed, whether the victim or any relative of the victim was informed of the right to make a victim impact statement and of the matters mentioned in sections 12 and 13.

(3) Before accepting or rejecting a plea agreement, the court shall be satisfied that—

- (a) no improper inducement was made to the accused person to enter into the plea discussion or conclude the agreement;
- (b) the accused person understands the nature, substance and consequences of the agreement;
- (c) the accused person understands the nature of the offence with which the accused is being charged and is pleading to;
- (d) the accused person understands that the court is not obligated to accept the plea agreement; and
- (e) the offence to which the agreement relates adequately reflects the gravity of the provable conduct of the accused person, unless in exceptional circumstances, the agreement is justifiable having regard to the benefits that will accrue to the administration of justice and the protection of society from the prosecution of the accused person.

(4) If a victim impact statement is filed with the court, the court shall consider the views expressed in the victim impact statement before accepting



or rejecting a plea agreement and the court may accept or reject all or any part of a victim impact statement.

(5) An accused person may, with leave of the court, cross examine the victim on the contents of the victim impact statement of the victim, to the extent that the court allows.

(6) Where a victim impact statement contains information that—

(a) is not permitted under section 13; or

(b) in the discretion of the court, should not be included in a victim impact statement,

the court may rule that the information is inadmissible and direct that it be redacted from the victim impact statement.

**25.—(1)** The court may reject a plea agreement entered into between a prosecutor and an accused person where it deems that it is in the interest of justice to do so.

Plea agreement not binding on the court.

(2) Notwithstanding sub-section (1), where the court makes a determination that there was an improper inducement offered to the accused person, the court shall reject the plea agreement.

(3) Where a judge or magistrate rejects a plea agreement under sub-section (1), the judge or magistrate shall—

(a) in open court, inform the accused person of the right to be tried before another judge or magistrate;

(b) within seven days of the rejection of the plea agreement, provide written notification to the Director of Public Prosecutions and the accused person of the reason for rejecting the plea agreement; and

(c) set down the matter for trial.

(4) The rejection of a plea agreement by the court shall not operate as a bar to the conduct of any subsequent plea discussion and plea agreement.

Procedure when a plea agreement is accepted.

**26.** Where the court accepts a plea agreement, the accused person shall plead guilty to the charge.

**27.—(1)** Where an accused person withdraws from the plea agreement and fails to enter a plea of guilty at the plea agreement hearing in the High Court, the judge may—

Withdrawal from plea agreement by accused person.

- (a) send the case back to the Magistrate Court for the conduct of committal proceedings where the matter was transferred to the High Court under section 22(1)(b); or
- (b) adjourn the matter for setting down in the High Court within thirty days.

(2) Where a case is sent back to the Magistrate Court under sub-section (1), committal proceedings shall commence before a new magistrate as if the plea agreement had not been entered into.

Case to be heard by different judge where plea agreement is rejected or withdrawn.

**28.** Where a judge or magistrate rejects a plea agreement or the accused person withdraws from the plea agreement and the case proceeds to trial, the matter shall be heard by any judge, other than the judge who rejected the plea agreement or before whom the agreement was withdrawn.

## PART V

### *Appeal against Rejection, Grounds for Withdrawal and Setting Aside of Plea Agreement*

Accused person's right of appeal against rejection of plea agreement.

**29.**—(1) Subject to sub-section (2), an accused person may appeal to the Court of Appeal against the rejection of a plea agreement by the court.

(2) The accused person shall give notice of appeal in the manner set out in Form 10 of the Schedule within twenty-eight days of receiving written notification under section 25(3)(b) of the reason of the court for rejecting the plea agreement.

Director of Public Prosecution's right of appeal against rejection of plea agreement.

**30.**—(1) The Director of Public Prosecutions may appeal to the Court of Appeal against the rejection of the plea agreement by the court.

(2) The Director of Public Prosecutions shall give notice of appeal in the manner set out in Form 11 of the Schedule within twenty-eight days of receiving written notification under section 25(3)(b) of the reason of the court for rejecting the plea agreement.

Grounds for withdrawal from plea agreement by accused person.

**31.** The court may, upon application by an accused person, allow the accused person to withdraw from the plea agreement at any time before sentence where—

- (a) it was entered into as a result of an improper inducement;

- (b) it was entered into as a result of a misrepresentation as to the substance or consequences of a plea agreement;
- (c) the prosecutor has breached the terms of the plea agreement; or
- (d) there are any other grounds upon which the plea agreement may be set aside by the court in the interest of justice.

**32.**—(1) At any time before the sentence, the Director of Public Prosecutions may apply to the court to set aside the plea agreement where—

Application by prosecutor to set aside plea agreement.

- (a) the prosecutor was, in the course of a plea discussion, wilfully misled by the accused person or by the attorney-at-law of the accused person in some material respect;
- (b) the prosecutor was induced to conclude the plea agreement by conduct amounting to an obstruction of justice; or
- (c) there are any other grounds upon which the plea agreement may be set aside by the court in the interest of justice.

(2) Notwithstanding the conviction and sentence of an accused person pursuant to a plea agreement, the Director of Public Prosecutions may seek the leave of the Court of Appeal to have the conviction or sentence of the accused person set aside where any of the grounds in sub-section (1)(a) to (c) exist.

(3) Where the Director of Public Prosecutions is granted leave to the Court of Appeal in accordance with sub-section (2), the Director of Public Prosecutions shall give notice of appeal in the form set out as Form 11 of the Schedule within 21 days of the sentence passed.

**33.** The Court of Appeal may, upon application by the Director of Public Prosecutions or the accused person, extend the time within which the notice of appeal may be given if it is satisfied that there are sufficient grounds for not preferring the appeal within the prescribed period of time.

Extension of time for filing notice of appeal.

## PART VI

### *Sentencing*

**34.**—(1) The court may accept or reject a recommendation on sentence from the prosecutor, the accused person or the attorney-at-law of the accused person before or after the acceptance of a plea agreement.

Court may accept or reject recommendation on sentence.

(2) Where the court accepts a recommendation on sentence, the sentence imposed shall take account of the time that the accused person spent in custody.

(3) Where the court rejects a recommendation on sentence, the prosecutor, accused person or the attorney-at-law of the accused person, may withdraw from a plea agreement.

(4) Subject to sub-section (5), where an offence is punishable by a prescribed minimum penalty, the court may, notwithstanding any other provision to the contrary, impose sentence without regard to the prescribed minimum penalty.

(5) Where the court imposes a sentence without regard to the prescribed minimum penalty under sub-section (4), the judge shall provide detailed reasons why the particular sentence is imposed.

(6) Where a particular sentence is outside of the sentence or sentencing range set out in any sentencing guidelines issued by the Chief Justice, if any, the judge shall provide detailed reasons why the particular sentence is imposed.

Power to reduce penalties for assistance provided to Crown.

**35.—(1)** The judge may impose a lesser sentence than it would otherwise impose on an accused person, having regard to the degree to which the accused person has assisted, or undertaken to assist, the Crown in the prevention, detection, or investigation of, or in proceedings relating to, the offence concerned or any other offence, and having regard to the matters set out in sub-section (2).

(2) In determining whether to impose a lesser sentence for an offence and the nature and extent of the sentence being imposed, the court shall consider the following matters—

- (a) the significance and usefulness of the assistance of the accused person to the Crown, taking into consideration any evaluation by the Crown of the assistance rendered or undertaken to be rendered;
- (b) the truthfulness, completeness, and reliability of any information or evidence provided by the accused person;
- (c) the nature and extent of the assistance or promised assistance of the accused person;
- (d) the timeliness of the assistance or undertaking to assist;

- (e) any benefits that the accused person has gained or may gain by reason of the assistance or undertaking to assist;
- (f) whether the accused person will suffer harsher custodial conditions as a consequence of the assistance or undertaking to assist;
- (g) any injury suffered by the accused person or the family of the accused person, or any danger or risk of injury to the accused person or the family of the accused person resulting from the assistance or undertaking to assist;
- (h) whether the assistance or promised assistance concerns the offence for which the accused person is being sentenced or an unrelated offence;
- (i) whether the accused person has agreed to compensate the victim; and
- (j) whether the accused person offers to plead guilty soon after the accused person has been charged.

(3) A judge or magistrate who imposes a lesser sentence under this section on an accused person because the accused person has assisted or undertaken to assist shall—

- (a) indicate to the accused person and may make record of the fact that the lesser sentence is being imposed because the accused person has assisted, or undertaken to assist, the Crown in the prevention, detection, or investigation of, or in proceedings relating to, the offence concerned or any other offence; and
- (b) state the sentence that the judge or magistrate would otherwise have imposed.

(4) Sub-section (3) shall not limit any requirement that a judge or magistrate has, a part from that sub-section, to record the reasons for the decisions.

(5) The failure of a judge or magistrate to comply with the requirements of sub-section (3) with respect to any sentence shall not invalidate the sentence.

## PART VII

### *Post Sentence Discussions and Agreements*

Post sentence discussions and agreements.

**36.** A convicted person who is serving a sentence and wishes to assist a prosecutor may enter into any post sentence discussion and agreement with a view to a reduction in sentence or any other benefit.

Review of sentence of convicted person.

**37.**—(1) A prosecutor may refer a sentence for review to the judge or magistrate or court that entered the original sentence, if possible, if it is in the interest of justice to do so.

(2) The judge or magistrate may review a sentence under sub-section (1) where—

- (a) the convicted person received a reduced sentence on an undertaking to assist under this Act but knowingly failed to provide any assistance in accordance with the agreement or misled the prosecutor.
- (b) the convicted person received a reduced sentence under an agreement and has undertaken in a separate agreement to provide further assistance; or
- (c) the convicted person did not receive a reduced sentence, but subsequently gave, or undertook in agreement to provide, assistance in connection with the investigation or prosecution of an offence.

(3) In reviewing a sentence under sub-section (1), the judge or magistrate or the court that entered the original sentence shall have regard to the extent and nature of the assistance given or offered and the period of the sentence that has been served.

(4) A person who has been convicted of an offence which is punishable by a prescribed minimum penalty may enter into post negotiation if the accused person did not plead guilty to the offence for which the accused was sentenced.

Assistance by convicted person: review of sentence.

**38.**—(1) This section applies if—

- (a) the judge or magistrate has imposed a sentence on a convicted person in respect of an offence; and
- (b) the convicted person—
  - (i) receives a reduction in sentence as a result of having offered under an agreement to provide assistance to the prosecutor of an offence but knowingly fails to any

extent to provide assistance in accordance with the agreement;

(ii) receives reduction in sentence in consequence of having offered in accordance with an agreement to provide assistance to the prosecutor and, having provided the assistance in accordance with the agreement, provides or offers to provide further assistance; or

(iii) receives a sentence which is not reduced but in accordance with an agreement, the convicted person subsequently provides or offers to provide assistance to the prosecutor.

(2) A prosecutor may, at any time, refer the case back to the judge or magistrate before whom the sentence was imposed if—

(a) the convicted person is still serving the sentence; and

(b) the prosecutor thinks it is in the interest of justice to do so.

(3) A case that is so referred under sub-section (2) shall, if possible, be heard by the judge or magistrate who passed the sentence to which the referral relates.

(4) If the judge or magistrate is satisfied that a person who falls within sub-section (1)(a) knowingly failed to provide the assistance, the judge or magistrate may substitute for the sentence to which the referral relates such greater sentence, not exceeding that which it would have passed but for the agreement to provide assistance, as it thinks fit.

(5) In the case of a convicted person who falls within sub-section (2)(b) or (c), the judge or magistrate may—

(a) take into account the extent and nature of the assistance provided or offered; and

(b) substitute for the sentence to which the referral relates such lesser sentence as it thinks fit.

(6) Any part of the sentence to which the referral relates which the convicted person has already served shall be taken into account in determining when a greater or lesser sentence imposed by sub-sections (4) or (5) has been served.

(7) A convicted person with respect to whom a reference is made under this section or the prosecutor may, with the leave of the Court of

Appeal, appeal to the Court of Appeal against the decision of the judge or magistrate.

(8) A reduction in sentence is a sentence passed in accordance with sub-section (5).

## PART VIII

### *Miscellaneous*

Inadmissible evidence.

**39.** Evidence of the following matters shall not be admissible in any criminal or civil proceedings against an accused person who entered into a plea agreement or is a party to a plea discussion—

- (a) an offer into a plea agreement or a statement made in connection with the offer;
- (b) a statement made during a plea discussion or a plea agreement hearing; or
- (c) a plea agreement or guilty plea, which is later withdrawn.

Sealing of records.

**40.** The court may, in exceptional circumstances, upon application by the accused person or suspect or the prosecutor or in its discretion, order that the records of any plea discussion or a plea agreement be sealed if the court is satisfied that the sealing of the records is in the interest of justice and the court shall give written reasons for the order.

Obligation for secrecy.

**41.—(1)** Every person having an official duty or being employed in the administration of this Act shall regard and deal with as secret and confidential all documents or information relating to an agreement before it is presented to the court or after the records of the agreement are sealed by the court.

(2) Every person referred to in sub-section (1) having possession of, or control over, any documents or information referred to in sub-section (1), who at any time communicates or attempts to communicate anything in such documents or any information to any person otherwise than in accordance with this Act or under a court order, commits an offence and is liable on summary conviction or on indictment to a fine not exceeding fifteen thousand dollars or imprisonment for a term not exceeding twelve months.



- 
- 42.** Nothing in this Act shall affect the powers conferred upon the Director of Public Prosecutions under section 50 of the Belize Constitution. Director of Public Prosecution's powers not affected. Amendment of Schedule.
- 43.** Subject to negative resolution, the Minister may, by Order published in the *Gazette*, amend the Schedule.
- 44.** The Minister may make Regulations for the purpose of giving effect to and for the better carrying out of this Act. Regulations.
- 45.** This Act shall come into force on a day appointed by the Minister by Order published in the *Gazette*. Commencement.

SCHEDULE

FORM 1

*[section 9(1)(b)]*

*Declaration By Accused/Defendant of Desire to Represent Self in Plea Discussions*

(This Form applies if the accused/defendant does not wish to be represented by an attorney-at-law)

A.B.—The Crown/Complainant

v.

C.D.—The Accused/Defendant

WHEREAS the accused was on the ..... day of..... 20..... charged with the following offence(s)–

- (a)
- (b)
- (c)
- (d)
- (e)

And as the prosecutor has informed me as to my–

- (i) right to be represented by an attorney-at-law during the plea discussion;
- (ii) right to protection against self-incrimination;
- (iii) right to be presumed innocent;
- (iv) right to remain silent;

- (v) right to seek a sentence indication from the court of the maximum sentence that the court may impose if the accused person pleads guilty to an offence; and
- (vi) option to elect to have a third party of the accused person's choice present during any plea discussion,

and I have informed the prosecutor of my desire to represent myself.

And whereas I have voluntarily and of my free will agreed to enter into plea discussions with the prosecutor and—

- (a) I have (elected/not elected) to have a third party of my choice be present during plea discussions; and
- (b) I have not been induced, threatened or forced in any way to enter into plea discussions.

Dated this ..... day of ....., 20.....

(Signed)

(Signed)

.....

.....

*Prosecutor*

*Accused/Defendant*

## FORM 2

*[section 9(2)(b)]**Declaration By Suspect of Desire to Represent Self in Plea Discussions*

(This Form applies if the suspect does not wish to be represented by an attorney-at-law)

WHEREAS the prosecutor has informed me as to my—

- (i) right to be represented by an attorney-at-law during the plea discussion;
- (ii) right to protection against self-incrimination;
- (iii) right to be presumed innocent;
- (iv) right to remain silent;
- (v) right to seek a sentence indication from the court of the maximum sentence that the court may impose if the accused person pleads guilty to an offence; and
- (vi) option to elect to have a third party of the accused person's choice present during any plea discussion,

and I have informed the prosecutor of my desire to represent myself.

And whereas I have voluntarily and of my free will agreed to enter into plea discussions with the prosecutor and—

- (a) I have (elected/not elected) to have a third party of my choice be present during plea discussions;
- (b) I have agreed to the plea discussions being recorded; and
- (c) I have not been induced, threatened or forced in any way to enter into plea discussions.

Dated this ..... day of ....., 20.....

(Signed)

(Signed)

.....

.....

*Prosecutor*

*Suspect*

**CERTIFICATION OF THE JUSTICE OF THE PEACE**

I ....., Justice of the Peace  
for the District of ....., hereby certify that the above declaration  
was signed by the prosecutor  
.....

(name of prosecutor)

and the suspect .....

(name of suspect)

in my presence on the .....day of .....20.....

[section 16]

*Impact Statement for Business*

The impact statement for business (ISB) gives you the opportunity to set out the impact that a crime has had on the business such as direct financial loss and wider impacts, e.g., operational disruption or reputational damage. The court will take the statement into account when determining sentence.

In this statement you should not provide an opinion or recommendation on the sentence or sanctions that the court should use. This is for the court to decide. You should limit the information you give in this statement to the impact this particular crime has had on the business, rather than providing information on how any previous criminal activity may have affected the business, unless, for example, this crime results from the repeat offending of the same offender. You should not restate the facts of the offence or offer criticisms of the accused.

The business should consider carefully who to authorise as the representative to make the statement on its behalf. Once you have completed this form, you should return it to your police contact.

A person making an ISB on behalf of a corporation (“the duly authorised representative”) shall be authorised to do so on its behalf. The duly authorised representative may be required to answer questions or be cross-examined on the ISB in court.

The prosecutor will be in touch to let you know the date of the first hearing date and at that stage, you will need to make or update your ISB through your duly authorised representative.

Name of Business Affected

Business Address

Contact Name

Telephone Number

Address

Police Officer Attending

1. *Financial Impact*

2.  Please check this box if the business suffered no financial losses as a result of this crime.

2.1 *Direct financial losses*

These could include but are not limited to—

- assets lost or stolen; and
- damage to buildings and property.

3. *Non-Financial Impact*

Please explain how the incident has had a non-financial impact on your business.

This could include—

- reputational damage; and
- physical injuries sustained by staff or customers.

3.1 *Other indirect financial costs*

These could include but are not limited to—

- loss of custom;
- impact on consumer confidence;
- staff time;
- expenditure on security measures (e.g., physical infrastructure, IT);
- medical expenses; and
- costs of contractual staff.

Please explain how your business has suffered an indirect financial loss as a result of the crime.

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4. *Other Comments*

Please use this space to set out any further comments you wish to make about the impact of the crime on your business.

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*Declaration:*

This statement [consisting of \_\_\_\_\_ page(s) signed by me] is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything which I know to be false, or do not believe to be true.

Signed.....

Date.....



FORM 4

*[section 19(1)]*

*Plea Agreement*

(This Form applies if the accused/defendant/suspect is represented by an attorney-at-law)

No.

A.B.—The Crown/Complainant

v.

C.D.—The Accused/Defendant/Suspect

WHEREAS the accused/defendant/suspect was on the ..... day of....., 20..... charged with the following offence(s)–

- (a)
- (b)
- (c)
- (d)

And whereas a plea agreement was on the ..... day of ....., 20..... concluded between the prosecutor and the attorney-at-law for the accused/defendant.

And whereas it was agreed that the accused/defendant/suspect shall plead guilty to—

- (a)
- (b)
- (c)
- (d)

(e)

and in consideration that the prosecutor shall take a certain course of action mentioned hereunder.

And whereas it was agreed that as a result of the accused/defendant/suspect pleading guilty to the said offence(s), the prosecutor shall take the following course of action—

(a)

(b)

(c)

(d)

(e)

(f)

(g)

(h)

(i)

Dated this ..... day of ....., 20.....

(Signed)

(Signed)

.....  
*Prosecutor*

.....  
*Attorney-at-law for the  
Accused/Defendant/Suspect*

(Signed)

.....  
*Accused/Defendant/Suspect*

FORM 5

*[section 19(2)(a)]*

*Statement by the Accused/Defendant/Suspect*

I have read this agreement and carefully discussed each paragraph with my attorney-at-law. I understand the terms of this agreement and agree to it without reservation. I voluntarily and of my free will agree to those terms. I am pleading guilty to the charge(s). My attorney-at-law has advised me of my rights, of possible defences, of the penalties and of the consequences of entering into this agreement. No promises, agreements, understanding or inducements have been made to me other than those contained in this agreement. No one has threatened or forced me in any way to enter into this agreement. I have had sufficient time to confer with my attorney-at-law concerning the plea agreement. I am satisfied with the representation of my attorney-at-law in this matter.

.....

*Name of Accused/Defendant/Suspect*

*Date*

FORM 6

*[section 19(2)(b)]*

*Statement by the Attorney-at-Law Representing the  
Accused/Defendant/Suspect*

I am the attorney-at-law for .....

*Name of the Accused/Defendant/Suspect*

I have read this agreement and carefully discussed each paragraph of this agreement with my client. Further, I have fully advised my client of his rights, of possible defences, if applicable, of the penalties and of the consequences of entering into this agreement. To the best of my knowledge and belief, my client's decision to enter into this agreement is an informed and voluntary one.

.....  
*Name of the attorney-at-law representing  
the Accused/Defendant/Suspect*

.....

*Signature*

*Date*

FORM 7

[sections 19(2)(c) and 20(2)(b)]

Interpreter's Certificate

I, \_\_\_\_\_, declare that I am

(Insert Name of Person Translating)

(Check one)

a casual interpreter

appointed by a court to act as Interpreter in respect of the plea discussions and plea agreement between A.B.—The Crown/Complainant v. C.D.—The Accused Person/Defendant/Suspect.

I am a casual interpreter/a court appointed interpreter tasked with interpreting and translating from the \_\_\_\_\_ language to the \_\_\_\_\_ language.

I further declare that I have accurately translated the plea discussions between A.B.—The Crown/Complainant and C.D.—The Accused Person/Defendant/Suspect and the attached Plea Agreement from the \_\_\_\_\_ language to the \_\_\_\_\_ language.

I declare to the best of my abilities and belief, that this is a true and accurate translation of the \_\_\_\_\_ language text of \_\_\_\_\_ the Plea Agreement between A.B.—The Crown/Complainant and C.D.—The Accused/Defendant/Suspect.

.....

.....

Signature of Interpreter

Date

FORM 8

*[section 20(1)]*

*Plea Agreement*

(This Form applies if the accused/defendant/suspect is not represented by an attorney-at-law)

No.

A.B.—The Crown/Complainant

v.

C.D.—The Accused/Defendant/Suspect

WHEREAS the accused/defendant/suspect was on the ..... day of ....., 20..... charged with the following offence(s)–

(a)

(b)

(c)

(d)

And whereas the prosecutor informed the accused/defendant that he should be represented by an attorney-at-law.

And whereas the accused/defendant/suspect informed the prosecutor that he did not wish to be represented by an attorney-at-law and declared, inter alia before a Justice of the Peace his desire to represent himself and (to elect/to not elect) to have a third party of his choice be present during plea discussions:

And whereas the accused/defendant/suspect also declared, before a Justice of the Peace, inter alia, that he was informed of his right to be represented by an attorney-at-law and that he desired to represent himself and (to elect/to not elect) to have a third party of his choice be present during plea discussions.

And whereas the accused/defendant/suspect agreed to have the plea discussions recorded.

And whereas a plea agreement was on the ..... day of ....., 20..... concluded between the prosecutor and the accused/defendant/suspect.

And whereas it was agreed that the accused/defendant shall plead guilty to—

- (a)
- (b)
- (c)
- (d)
- (e)
- (f)

in consideration that the prosecutor would take a certain course as mentioned hereunder.

And whereas it was agreed that as a result of the accused/defendant/suspect pleading guilty to the said offence(s), the prosecutor shall take the following course of action—

- (a)
- (b)
- (c)
- (d)
- (e)
- (f)
- (g)
- (h)
- (i)

Dated this ..... day of ....., 20.....

(Signed)

(Signed)

.....

.....

*Prosecutor*

*Accused/Defendant/Suspect*

CERTIFICATION OF THE JUSTICE OF THE PEACE

I ....., Justice of the Peace  
for the District of ....., hereby certify that the above declaration  
was signed by the prosecutor

.....

(name of prosecutor)

and the accused/defendant/suspect .....

(name of accused/defendant/suspect)

in my presence on the .....day of .....20.....

(Signed)

.....

*Justice of the Peace*



FORM 9

*[section 20(2)(a)]*

*Application For Listing Plea Agreement Hearing*

No.

A.B.—The Crown/Complainant

v.

C.D.—The Accused Person/Defendant/Suspect

COURT DETAILS:

Court

Division

Registry

Case Number

TITLE OF PROCEEDINGS:

A.B.—The Crown/Complainant v. C.D.—The Accused Person/Defendant/Suspect

FILING DETAILS:

Person seeking hearing:

Contact Name and Address:

PERSON AFFECTED BY HEARING SOUGHT:

ORDER SOUGHT:

Case be listed for a plea agreement hearing

.....

.....

*Signature*

*Date*

*[section 29(2)]*

*Form of Notice of Appeal if Appellant is the Accused/Defendant/Suspect*

To: A.B.

Registrar of the Court

Take notice that I ..... (C.D.)  
aggrieved by a conviction or sentence (or order of rejection of plea  
agreement) of ....., dated  
..... against me the  
said..... for having as therein alleged on  
the..... day of ..... (here state briefly the  
conviction or sentence/order of rejection of plea agreement) do appeal against  
such conviction or sentence/order of rejection of plea agreement on the  
ground(s) that ..... [in the case of appeal  
against conviction or sentence, list one or more of the grounds cited in section  
30(1) in the case of appeal against order of rejection of plea agreement, give  
grounds].

Dated this .....day of .....,  
20.....

.....

*C.D. or his attorney-at-law*

*[sections 30(2) and 32(3)]*

*Form of Notice of Appeal of the Director of Public Prosecutions*

To: A.B.

.....

Registrar Court

Take notice that I, C.D., have cause to believe that, in the course of plea discussions, I was wilfully misled by the accused on the ground that

.....

..... and do appeal the matter on the aforementioned ground(s).

Dated this .....day of ....., 20.....

.....

*C.D*