

**A BILL
ENTITLED**

AN ACT to provide for Courts of Petty Sessions to be re-named Lay Magistrates' Courts, to amend the Judicature (Parish Courts) Act accordingly, and to provide for connected matters.

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:-

Short title.

1. This Act may be cited as the Re-naming of the Courts of Petty Sessions (Miscellaneous Amendments) Act, 2017.

**Re-naming of
Courts of Petty
Sessions.**

2. Courts of Petty Sessions are hereby re-named "Lay Magistrates' Courts".

**Amendments to
enactments and
construction
thereof.**

3. For the purposes of section 2 –

(a) references to "Courts of Petty Sessions" appearing in any enactment shall be substituted with references to "Lay Magistrates' Courts", and the necessary like modifications shall be made to those enactments, in respect of any cognate expressions referring to Courts of Petty Sessions, to reflect the re-naming; and

(b) in particular, the provisions of the Judicature (Parish Courts) Act specified in Column 1 of the Schedule are amended in the manner specified in relation thereto in Column 2 of the Schedule, and this Act shall be read and construed as one with that Act.

SCHEDULE

(Section 2)

Column 1	Column 2
Provision	Amendment
<p>Section 8</p> <p>Delete the words “Court of Petty Sessions” and substitute therefor the words “Lay Magistrates’ Courts”.</p>	
<p>Section 16</p> <p>1. Delete the words “at Petty Sessions” and substitute therefor the words “at Lay Magistrates’ Courts”.</p> <p>2. Delete the words “all Courts of Petty Sessions” and substitute therefor the words “all Lay Magistrates’ Courts”.</p>	
	<p>3. Delete the words “out of Sessions” and substitute therefor the words “outside of Lay Magistrates’ Courts”.</p> <p>4. Delete the words “a Special or Petty Session of Justices, or of a Stipendiary Magistrate” and substitute therefor the words “at a Lay Magistrates’ Court or of a Lay Magistrate”.</p>
<p>Section 27</p> <p>Delete the words “Court of Petty Sessions” and substitute therefor the words “Lay Magistrates’ Court”.</p>	
<p>Section 37</p> <p>Delete the words “Petty Sessions” and substitute therefor the words “Lay Magistrates’ Court”.</p>	
<p>Section 41</p> <p>Delete the words “Court of Petty Sessions” and substitute therefor the words “Lay Magistrates’ Courts”.</p>	
<p>Section 63</p> <p>1. Delete the words “all Courts of Petty Sessions” and substitute therefor the words “all Lay Magistrates’ Courts”.</p>	
	<p>2. Delete the words –</p> <p>(a) “any Court of Petty Sessions”; and</p> <p>(b) “a Court of Petty Sessions”,</p> <p>and substitute therefor in each case the words “a Lay Magistrates’ Court”.</p>

Section 66 Delete the words “Petty Sessions” and substitute therefor the words “Lay Magistrates’ Courts”.

Section 285 Delete the words “Court of Petty Sessions” and substitute therefor the words “Lay Magistrates’ Court”.

Section 293 Delete the words “Justices in Petty Sessions” and substitute therefor the words “a Lay Magistrates’ Court”.

MEMORANDUM OF OBJECTS AND REASONS

A decision has been taken to re-name the Courts of Petty Sessions as “Lay Magistrates’ Courts”, pursuant to a recommendation made by the Justice Reform Task Force. This Bill seeks to give effect to that decision and is a companion measure to the Bill shortly entitled the Justices of the Peace Act, 2017.

Delroy Chuck
Minister of Justice

SECTION 8 OF THE JUDICATURE (PARISH COURTS) ACT
WHICH IT IS PROPOSED TO AMEND

*Change of the
Parish Court*

8. It shall be lawful for the Governor-General from time to time, to appoint a Stipendiary Magistrate for the Corporate Area, whose duty it shall be to assist the Magistrate by presiding in the Court of Petty Sessions at times when the Magistrate is unable to attend there.

SECTION 16 OF THE JUDICATURE (PARISH COURTS) ACT
WHICH IT IS PROPOSED TO AMEND

*Change of
the Parish
Court*

16. There shall be an officer appointed by the Governor-General in each parish for which a Magistrate is appointed, who shall be styled the Clerk of the Courts of the parish of

*Appoint-
ment of
Clerks of
the Courts.*

The said officer shall be the Clerk of the Courts of the parish and shall, by virtue of his office as such, within such parish be a Justice of the Peace and shall take informations and administer oaths, and issue summonses and warrants thereon; and issue summonses or warrants or subpoenas for compelling the appearance of defendants or witnesses at Petty Sessions; and issue all other process or proceedings relating to summary proceedings or indictable offences, and admit to bail, upon recognizance, any person or persons brought before him upon such process or other proceedings issued by him or by any other Justice.

Any such Clerk shall, in the execution of his office, be entitled to all the immunities, privileges and protection, conferred on Justices.

He shall also be the Clerk to any Circuit Court held within the parish, except in the case of the Circuit Court held in Kingston, in which the Registrar of the Supreme Court shall be Clerk as heretofore; and shall also perform, in relation to the Supreme Court, such duties as may from time to time by any enactment or Rules of the Supreme Court, be imposed upon him.

He shall attend all Courts of Petty Sessions and shall assist the Justices sitting therein, and shall perform all duties at special sessions relating to offences or matters of a public nature and in furtherance of the general criminal justice of the Island in public matters.

He shall also have authority to administer and take oaths, affidavits, affirmations, acknowledgments, and declarations of the execution of wills, deeds and instruments in writing, and of the other matters whereof Justices are now or may be hereafter by law authorized to administer; and take oaths, affidavits, affirmations, acknowledgments and declarations respectively; to give, grant, sign and issue certificates, search warrants, warrants of entry or inspection and other warrants (except bench warrants) and authorities; and generally to do any act or thing, or to make any order which by any enactment now in force or hereafter to be made in or shall be authorized or directed to be done or made by a Justice out of Sessions :

But he shall have no authority to take the preliminary examination, or depositions on informations for indictable offences under the Justices of the Peace Jurisdiction Act or to commit for trial under that Act; nor shall he be competent to act as a Justice either alone or with any other Justice, in anything which is to be done at a Special or Petty Session of Justices, or of a Stipendiary Magistrate; nor shall he be competent to make the proclamation authorized and required to be made by the Riot Act.

Justice of the Peace Court

SECTION 27 OF THE JUDICATURE (PARISH COURTS) ACT
WHICH IT IS PROPOSED TO AMEND

27. The Clerk of the Courts, or in his absence the Assistant Clerk, or such Clerk as may be directed by the Magistrate, shall take notes of evidence in every case heard summarily before either the Court or the Court of Petty Sessions; and the Magistrate shall take notes of the evidence in the trial of all indictments and in all civil suits; and such notes, heretofore taken, or hereafter to be taken, by the Magistrate, or a copy thereof, purporting to bear the seal of the Court, and to be signed and certified as a true copy by the Clerk of the Courts, shall at all times be admitted in all Courts and places whatsoever, in the trial or hearing of all civil proceedings suits and matters, for the purpose of impeaching the credit or contradicting the evidence of any person in accordance with the provisions of sections 15 and 17 of the Evidence Act, as *prima facie* evidence that the statements therein appearing to have been made by such person were so made.

Justice of the Peace Court

SECTION 37 OF THE JUDICATURE (PARISH COURTS) ACT
WHICH IT IS PROPOSED TO AMEND

37. The Clerk of the Courts, after consultation with the Court Administrator, if one is assigned to the Court, shall destroy—

- (a) all licences and applications therefor, and all bailiffs' returns and court lists (of business transacted) at the expiration of three years from the date thereof;
- (b) all general correspondence and papers in proceedings in Petty Sessions, other than proceedings for bastardy, maintenance, trespass or felony, at the expiration of six years from the date thereof.

SECTION 41 OF THE JUDICATURE (PARISH COURTS) ACT
WHICH IT IS PROPOSED TO AMEND

41. Every person who—

- (a) being Clerk of any Court or other officer having the custody of the records of any Court, utters any false copy or certificate of any record;
 - (b) delivers, or causes to be delivered, to any person any paper falsely purporting to be any process, or a copy thereof, of any Court, Coroners Court, or Court of Petty Sessions;
 - (c) acts, or professes to act, under any such process, knowing it to be false,
- shall be guilty of felony, and being convicted thereof shall be liable to imprisonment with hard labour for any term not exceeding seven years.

SECTION 63 OF THE JUDICATURE (PARISH COURTS) ACT
WHICH IT IS PROPOSED TO AMEND

63. It shall be the duty of every Magistrate, in the parish or parishes, or at any station or stations therein, to which for the time being he may be assigned by the Governor-General, to attend as Magistrate all Courts of Petty Sessions, and when present at any such Court, he shall be entitled to preside thereat; and every Magistrate shall, when sitting alone in any such Court, whether within the limits aforesaid, or elsewhere in this Island, have all the powers and authority which are now, or which may hereafter be, by law committed to and exercisable by any two or more Justices associated and sitting together :

Duty of
Magistrate
to attend
all Courts
of Petty
Sessions
within his
parish.

*Judge of the
Parish Court*

Provided always, that nothing herein contained shall be taken to invalidate anything done at any Court of Petty Sessions at which the said Magistrate is not present :

*Judge of the
Parish Court*

And provided always, that when the Magistrate for any reason fails to attend a Court of Petty Sessions, the Clerk at such Court shall receive his orders and such directions as may be necessary for completing the business of the Court from the presiding Justice.

SECTION 66 OF THE JUDICATURE (PARISH COURTS) ACT
WHICH IT IS PROPOSED TO AMEND

Fixing the
times and
places for
holding Courts
of Petty
Sessions and
Resident
Magistrates'
Courts.

66. On or before the 31st day of October in each year, it shall be the duty of every Magistrate to fix the dates and stations at which Petty Sessions, or Courts will be held during the ensuing year, in the parish or parishes to which for the time being he may be assigned by the Governor-General, and also fix the date at which such Courts shall be held during the ensuing year, at any station or stations to which for the time being he may be assigned by the Governor-General; and on or before such date submit a list of such dates and stations for the approval of the Chief Justice. It shall be lawful for the Chief Justice to alter the dates and stations so fixed by the Magistrate as he may see fit, and in the event of a Magistrate failing to submit such lists as aforesaid, within the time aforesaid, to fix the dates and stations at which such Courts shall be held, without reference to the Magistrate. The dates and stations so fixed and approved as aforesaid, shall be the dates and stations at which such Courts shall be held during the ensuing year.

*Judge of the
Parish Court*

SECTION 285 OF THE JUDICATURE (PARISH COURTS) ACT
WHICH IT IS PROPOSED TO AMEND

*Justice of the Peace
the Court*
As to process
in Court and
in Petty
Sessions and
the issue
thereof.

285. Nothing in this Act shall be deemed to prevent the Magistrate from hearing and disposing of, in his Court, any cases which by law may be dealt with summarily that may be brought before him :

Provided, that there shall be but one description of process in summary cases for both the Court and the Court of Petty Sessions, and such process shall be subject, in either case, to the Court fees payable in the latter Courts, and to all rules prevailing in the said Courts as to payment of the same; and any process issued shall be made returnable indifferently at one Court or at the other, having regard to convenience in respect of time and place.

SECTION 293 OF THE JUDICATURE (PARISH COURTS) ACT
WHICH IT IS PROPOSED TO AMEND

293. An appeal from any judgment of a Magistrate in any case tried by him on indictment or on information in virtue of a special statutory summary jurisdiction, shall lie to the Court of Appeal:

Provided, that nothing herein shall be deemed to apply to any case adjudicated on by any Magistrate, whether associated with other Justices or not, which is within the cognizance of Justices in Petty Session, but an appeal may be had in any such case subject to the law regulating appeals from Justices in Petty Sessions.

*Justice of the Peace
Court*

*Justice of the Peace
Court*

