

JAMAICA

No. 6 – 2016

I assent,

[L.S.]

Sgd. P. L. Allen

Governor-General.

15th day of February 2016

AN ACT to Amend and rename the Judicature (Resident Magistrates) Act.

[*The date notified by the Minister
bringing the Act into operation*]

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.—(1) This Act may be cited as the Judicature (Resident Magistrates) (Amendment and Change of Name) Act, 2016, and shall be read and construed as one with the Judicature (Resident Magistrates) Act (hereinafter referred to as the principal Act) and all amendments thereto.

Short title,
construction
and
commence-
ment.

(2) This Act shall come into operation on a day to be appointed by the Minister, by notice published in the *Gazette*.

Amendment of section 1 of principal Act.

2. The principal Act is amended in section 1 by deleting the words “Judicature (Resident Magistrates) Act” and substituting therefor the words “Judicature (Parish Courts) Act”.

Amendment of section 2 of principal Act.

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

- (a) inserting immediately after the words “this Act” the words “, unless the context otherwise requires”;
- (b) deleting the definition of “Magistrate”;
- (c) deleting the full stop appearing at the end of the definition of “Court” and substituting therefor a semi-colon; and
- (d) inserting next after the definition of “Court” the following definition—

““Judge” means the Chief Judge of the Parish Courts or any other Judge of a Parish Court.”.

Amendment of section 3 of principal Act and amendments consequent on renaming.

4. Section 3 of the principal Act is amended by deleting, wherever they appear, the words—

- (a) “Resident Magistrate” and substituting therefor in each case the word “Judge of the Parish Court”;
- (b) “Magistrate” and substituting therefor in each case the word “Judge of the Parish Court”;
- (c) “Resident Magistrate’s Court” and substituting therefor in each case the words “Parish Court”;
- (d) “Resident Magistrate’s” and substituting therefor in each case the word “Parish Court Judge’s”;
- (e) “Resident Magistrates” and substituting therefor in each case the word “Judges”,

and all other cognate expressions referring to Resident Magistrates or Resident Magistrates’ Courts in the principal Act and all rules and other enactments made thereunder shall be amended in the appropriate, like manner, to reflect the change in styling of the Courts administered under the principal Act from Resident Magistrates Courts to Parish Courts.

5. The principal Act is amended by inserting next after section 4 the following section—

Insertion of
new section
4A in
principal Act.

“Chief
Judge of
Parish
Courts.

4A.—(1) There shall be appointed in accordance with this section a Chief Judge of the Parish Courts who, in addition to the functions of a Judge of a Parish Court, shall have the functions conferred by this section.

(2) For the avoidance of doubt, the Chief Judge shall be appointed from among the persons qualified to be appointed as a Judge of the Parish Court in accordance with section 12.

(3) The Chief Judge shall be appointed by the Governor-General, by instrument under the Broad Seal, on the advice of the Judicial Service Commission.

(4) The Chief Judge of the Parish Courts shall report directly to, and be subject to the direction of, the Chief Justice in the execution of the functions set out in subsections (5) and (6).

(5) The Chief Judge of the Parish Courts shall be responsible for—

- (a) the general administrative supervision of the work assigned to Parish Courts under this Act or any other law; and
- (b) such other functions as may be delegated by the Chief Justice, by instrument in writing, as the Chief Justice thinks fit.

(6) Each Judge of a Parish Court shall be responsible to, and subject to the direction of, the Chief Judge of the Parish Courts as regards the work of the Parish Court in relation to the administrative duties to be performed by that Judge and the times and places at which those duties are to be performed.”.

Amendment of section 7 of principal Act.

5A. Section 7 of the principal Act is amended by deleting—

- (a) the word “occasion;” and substituting therefor the word “occasion.”; and
- (b) the proviso.

Insertion of new section 7A in principal Act.

6. The principal Act is amended by inserting next after section 7, the following section—

“Immunity of Judges of Parish Courts. **7A.** Judges of the Parish Courts shall enjoy the same immunity from liability as Judges of the Supreme Court.”.

Replacement of heading.

7. The principal Act is amended by deleting the heading appearing immediately after section 11 and substituting therefor the following—

“Appointment of Judges of the Parish Courts, Executive Legal Officer to Chief Judge of the Parish Courts and Clerk of the Courts”.

Amendment of section 12 of principal Act.

8. Section 12 of the principal Act is amended—

- (a) by renumbering the section as section 12(1);
- (b) in subsection (1) (b) as renumbered, by deleting the word “five” and substituting therefor the word “seven”; and
- (c) inserting next after subsection (1), as renumbered, the following as subsections (2) and (3)—

“ (2) The Constitution of Jamaica shall have effect as respects the office of Judge of the Parish Courts as if it were one of the offices mentioned in subsection (2) of section 112 of the Constitution.

(3) For the avoidance of doubt, nothing in this Act shall invalidate the appointment of a person who was appointed, or appointed to act, as Judge, by virtue of that person having served or practised, as the case may require, for not less than five years but not for seven or more years at the time of the coming into effect of the *Judicature (Resident Magistrates) (Amendment and Change of Name) Act, 2015*.”.

9. The principal Act is amended by inserting next after section 15, the following section—

Insertion of
new section
15A in
principal Act.

“ Appoint-
ment of
Executive
Legal
Officer to
Chief
Judge of
the Parish
Courts.

15A.—(1) There shall be appointed in accordance with this section an Executive Legal Officer to the Chief Judge of the Parish Courts.

(2) A person shall not be appointed as Executive Legal Officer to the Chief Judge of the Parish Courts unless the person is an attorney-at-law.

(3) The functions of the Executive Legal Officer to the Chief Judge of the Parish Courts shall be to assist the Chief Judge of the Parish Courts by—

- (a) providing such legal research and support services as may be required;
- (b) liaising with the Director of Court Administration appointed under section 15A of the *Judicature (Supreme Court) Act* on a day-to-day basis on behalf of the Chief Judge of the Parish Courts; and
- (c) carrying out such other administrative functions as may be assigned or delegated to that officer by the Chief Judge of the Parish Courts.”.

10. Section 26 of the principal Act is repealed.

Repeal of
section 26 of
principal Act.

11. Section 27 of the principal Act is amended by renumbering the section as section 27(1) and inserting next as renumbered the following as subsections (2), (3), (4) and (5)—

Amendment
of section 27
of principal
Act.

“ (2) Notwithstanding subsection (1), where the Judge is satisfied that arrangements are in place at the Court to allow for notes of evidence to be taken—

- (a) by such electronic or other means as may be specified by rules of court; or

- (b) by a court reporter (whether or not using the means referred to in paragraph (a)),

the Judge may direct that the notes be so taken.

(3) Notes of the evidence taken pursuant to a direction made under subsection (2), shall be admissible in the same manner and for the same purposes as notes of evidence taken under subsection (1).

(4) A direction under subsection (2) may provide for that direction to apply only to a particular case or to such category of cases, or for such period of time, as is specified in the direction.

(5) The services of court reporters appointed under section 16 of *Judicature (Supreme Court) Act* may be made available for the purpose of taking notes of evidence in any Parish Court.”.

Repeal and replacement of section 194 of principal Act.

12. Section 194 of the principal Act is repealed and the following substituted therefor—

“Power to deal with contempt of court.

194.—(1) A person is in contempt of court if the person displays any act in the face or hearing of the Court of a kind which includes—

- (a) language that is indecent, violent or threatening;
- (b) gestures or conduct of an indecent, violent or threatening nature;
- (c) assault or battery committed on a—
 - (i) Judge;
 - (ii) any other officer of the Court; or
 - (iii) any other person in Court.

(2) Where a person displays any of the acts described in subsection (1), a constable, a bailiff or an officer of the Court may, with or without the assistance of any other person, by the order of the Judge—

- (a) take the offender into custody; and
- (b) detain the offender until the rising of the Court.

(3) Where a person displays any of the acts described in subsection (1) the Judge may, if the Judge thinks fit impose upon the offender—

- (a) where the offender contravenes paragraph (a) of subsection (1), a fine not exceeding one hundred thousand dollars;
- (b) where the offender contravenes paragraph (b) of subsection (1), a fine not exceeding one hundred thousand dollars;
- (c) where the offender contravenes paragraph (c) of subsection (1) a fine not exceeding five hundred thousand dollars.”.

13. The principal Act is amended by inserting next after section 305 the following heading and section—

Insertion of new section 305A in principal Act.

“

Penalties

Minister may amend monetary penalties. 305A. The Minister may, by order subject to affirmative resolution, amend the monetary penalties specified in this Act.”.

14.—(1) The enactments specified in the First Column of the Schedule are amended in the manner set out in relation thereto in the Second Column of the Schedule.

Amendments to other enactments.

Schedule. (2) Each amendment specified in the Second Column of the Schedule shall be read and construed as one with the enactment specified in the First Column of the Schedule in relation to that amendment and all other amendments to the enactment.

Construction
of other
enactments.

15. Any reference in any other enactment to—

- (a) a “Resident Magistrate’s Court” shall be construed as a reference to “Parish Court”;
- (b) a “Resident Magistrate” shall be construed as a reference to a “Judge of the Parish Court” for the parish concerned.”.

SCHEDULE (Section 14)

Amendment of Enactments

First Column

Second Column

Enactment

Amendment

The Coroners Act

Insert next after section 23D the following as section 23E—

“Notes of Evidence. 23E.—(1) Where the coroner is satisfied that arrangements are in place at an inquest to allow for notes of evidence to be taken—

- (a) by such electronic or other means as may be specified by rules of court;
- (b) by a court reporter (whether or not using the means referred to in paragraph (a)),

the Judge may direct that the notes be so taken, and the notes so taken shall be admissible in any other proceedings.

(2) The services of court reporters appointed under section 16 of the *Judicature (Supreme Court) Act* may be made available for the purpose of taking notes of evidence in any Parish Court.”.

The Judiciary Act

1. In section 2, delete from the opening words in subsection (1) the word “This” and substitute therefor the words “Subject to section 4A(1A) and (1B) and section 12 (1)(a)”.

First Column

Second Column

Enactment

Amendment

2. In section 4A—

- (a) insert next after subsection (1) the following subsections—

“ (1A) In respect of the offices specified in subsection (1B), the Minister shall within six months after the 1st day of April, 2016, and thereafter within six months after the 1st day of April in every third year or at such earlier times as may be expedient, appoint a Commission to—

- (a) enquire into the adequacy of the salaries and other amounts payable to the persons who hold the specified offices in subsection (1B) and the adequacy of the benefits generally payable to the holders of the specified offices; and
- (b) make such recommendations as the Commission considers appropriate in relation to the mat-

*The Judicature (Resident Magistrates) (Amendment
and Change of Name) Act, 2016* [No.]

11

First Column

Second Column

Enactment

Amendment

ters specified in
paragraph (a).

(1B) The specified offices
are—

- (a) Judges of the
Parish Courts;
- (b) Judges of the
Traffic Court and
Family Courts;
and
- (c) Masters of the
Supreme Court;
and
- (d) the Registrar of
the Supreme
Court and the
Registrar of the
Court of Ap-
peal.”;

(b) in subsection (2)—

- (i) delete the words “sub-
section (1) shall” and
substitute therefor the
words “subsection (1)
or (1A) shall”;
- (ii) insert next after the
words “subsection
(1)(b)” the words “sub-
section (1) (b) or (1A)
(b)”;

First Column

Second Column

Enactment

Amendment

(c) insert next after subsection (2) the following subsection—

“ (2A) There shall be paid to the members of a Commission appointed under subsection (2) such remuneration (whether by way of salaries, honoraria or fees) and such allowances, as the Minister with responsibility for the public service may determine.”.

3. In section 12(1)(a), delete all the words appearing after the words “in respect of” and substitute therefor the words “offices to which section 4A (1) or (1A) applies”.

Passed in the Senate this 3rd day of December, 2015 with six (6) amendments.

A. BROWN

Deputy President.

Passed in the House of Representatives this 2nd day of February, 2016.

MICHAEL A. PEART

Speaker.

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.

Sgd. Heather E. Cooke
Clerk to the Houses of Parliament.