

A BILL

ENTITLED

AN ACT to Amend the Gun Court Act, and to provide for connected matters.

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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 Gun Court (Amendment) Act, 2018, and shall be read and construed as one with the Gun Court Act (hereinafter referred to as the principal Act) and all amendments thereto.

Short title
and
construction.

Amendment
of section 6
of principal
Act.

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

2. Section 6 of the principal Act is amended in subsection (3) by deleting paragraph (b) and substituting therefor the following—

“(b) sitting—

- (i) with a jury for the purpose of trying any offence other than an offence referred to in sub-paragraph (ii); and
- (ii) without a jury for the purpose of trying any firearm offence which is murder other than murder—
 - (A) falling within section 2(1) of the *Offences Against the Person Act*; or
 - (B) where the person charged is a person to whom section 3(1A) of the *Offences Against the Person Act* would apply if the person were convicted of the offence,

is hereby constituted a Circuit Court Division of the Gun Court,”.

Amendment
of section 9
of principal
Act.

3. Section 9 of the principal Act is amended in paragraph (c) by inserting the words “subject to section 6(3)(b),” immediately before the words “where any offence”.

Amendment
of section 12
of principal
Act.

4. Section 12 of the principal Act is amended in subsection (4) by inserting next after the words “Supreme Court Judge and” the words “, where jury trial is required under section 6(3)(b), by”.

Repeal and
replacement
of section 18
of principal
Act.

5. The principal Act is amended by deleting section 18 and substituting therefor the following—

“Offences. 18.—(1) A person commits an offence who, in relation to any offence (in this section referred to as the “original offence”)—

- (a) injures or damages or threatens or attempts to injure or damage the person or property of another person, with the intent to—
 - (i) obstruct, defeat or pervert the course of justice in the Court; or
 - (ii) punish a person for, or prevent a person from, doing an act which is in the interest of justice in the Court; or
- (b) bribes or attempts to bribe, or makes any promise to, another person, with the intent to—
 - (i) obstruct, defeat or pervert the course of justice in the Court; or
 - (ii) dissuade any person from doing an act which is in the interest of justice in the Court.

(2) Subject to subsection (3), a person who commits an offence under subsection (1) shall be liable to the penalty applicable in respect of the original offence.

(3) Where the original offence is treason, or is murder—

- (a) falling within section 2(1) of the Offences Against the Person Act; or
- (b) where the person charged is a person to whom section 3(1A) of the Offences Against the Person Act would apply if the

person were convicted of the offence,

a person who commits an offence under subsection (1) shall be liable to imprisonment at hard labour for life.”.

Savings.

6. For the avoidance of doubt, nothing in this Act shall affect any trial commenced prior to the date of coming into operation of this Act.

Amendment of Jury Act.

7. Section 31 of the *Jury Act* is amended—

- (a) in subsection (1) by deleting the words “On trials” and substituting therefor the words “Subject to subsection (2A), on trials”; and
- (b) inserting next after subsection (2) the following subsection—

“ (2A) Subsection (2) shall not apply in any case where, under the provisions of the *Gun Court Act*, a trial is conducted without a jury.”.

MEMORANDUM OF OBJECTS AND REASONS

A decision has been taken to amend the Gun Court Act to provide for non-capital murder offences committed with a firearm to be tried in the Circuit Court Division of the Gun Court by a judge sitting without a jury. This Bill seeks to give effect to that decision, and also provides for consequential amendment of the *Jury Act*.

DELROY CHUCK
Minister of Justice.

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As introduced by the Honourable Minister of Justice.

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SECTION 6 OF THE PRINCIPAL ACT WHICH IT IS
PROPOSED TO AMEND

6.—(1) A Resident Magistrate in the parish of Kingston or St. Andrew or St. Catherine before whom any case involving a firearm offence is brought shall forthwith transfer such case for trial by the Gun Court and the record shall be endorsed accordingly, but no objection to any proceedings shall be taken or allowed on the ground that any case has not been so transferred.

... ..

(3) For the purposes of this Act a Supreme Court Judge on Circuit in any parish—

- (a) sitting without a jury, is hereby constituted a High Court Division of the Gun Court; and
- (b) sitting with a jury, is hereby constituted a Circuit Court Division of the Gun Court,

and, without prejudice to the powers conferred by section 7, the jury summoned for the Circuit Court shall constitute the jury for the Gun Court and the Chief Justice may, by order, regulate any other arrangements for the reference to, and trial of, cases in any such division and any such order may contain such consequential, supplementary or ancillary provisions as appear to the Chief Justice to be necessary or expedient.

SECTION 9 OF THE PRINCIPAL ACT WHICH IT IS
PROPOSED TO AMEND

9. Without prejudice to the generality of section 5—

- (a) there shall be vested in a Resident Magistrate's Division of the Court all the like powers and authorities as are vested in a Resident Magistrate's Court and in a Resident Magistrate;

... ..

- (c) where any offence of which the Court has cognizance is murder or treason a Circuit Court Division of the Court shall have the like powers and authority for the purposes of dealing with that offence as are vested in a Circuit Court for the purposes of dealing with such an offence.

SECTION 12 OF THE PRINCIPAL ACT WHICH IT IS
PROPOSED TO AMEND

12.—(1) Save as may be otherwise prescribed by this Act or by any regulations hereunder, the practice and procedure in the Resident Magistrate's Court shall, *mutatis mutandis*, obtain in a Resident Magistrate's Division of the Court.

... ..

(4) The trial of an offence of murder or treason in a Circuit Court Division of the Court shall, save as may be otherwise prescribed by this Act or by any regulations hereunder, be held and determined before a Supreme Court Judge and a jury in like manner as in a Circuit Court.

SECTION 18 OF THE PRINCIPAL ACT WHICH IT IS
PROPOSED TO REPEAL AND REPLACE

18. Every person who (whether in the Court or elsewhere) in relation to any offence—

- (a) injures or damages or threatens or attempts to injure or damage the person or property of another with either of the following two intents—
 - (i) to obstruct, defeat or pervert the course of justice in the Court; or
 - (ii) to punish any person for, or prevent or dissuade him from, doing his duty in the interests of justice in the Court; or
- (b) bribes or attempts bribe, or makes any promise to, any other person with either of the following two intents—
 - (i) to obstruct, defeat or pervert the course of justice in the Court; or
 - (ii) to dissuade any person from doing his duty in connection with the course of justice in the Court,

shall be guilty of an offence, which may be dealt with and punished in like manner as the first-mentioned offence, and the person so offending may be proceeded against, tried and convicted accordingly, either together with the person accused of that offence or otherwise;

Provided that where the first-mentioned offence is a capital offence, a person convicted under this section shall be liable to be sentenced to imprisonment at hard labour for life.

SECTION 31 OF THE JURY ACT WHICH IT IS
PROPOSED TO AMEND

31.—(1) On trials on indictment for—

- (a) treason; or
- (b) murder—
 - (i) committed in the circumstances specified in section 2(1)(a) to (f) of the *Offences Against the Person Act*; or

(ii) upon the conviction for which section 3(1A) of the *Offences Against the Person Act* would apply, twelve jurors shall form the array.

(2) On trials on indictment before the Circuit Court other than for an offence specified in subsection (1), seven jurors shall form the array.

