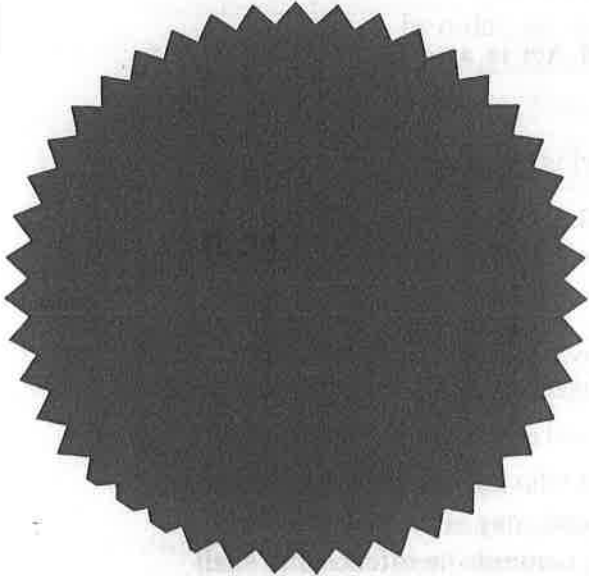


JAMAICA

No. 32 – 2015



I assent,

P. L. Allen

Governor-General.

21st day of December 2015

AN ACT to Amend the Jury Act; and for connected matters.

[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 Jury (Amendment) Act, 2015, and shall be read and construed as one with the Jury 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*.

- Insertion of new section 1A in principal Act.
- 2.** The principal Act is amended by inserting next after section 1, the following as section 1A—
- “Interpretation.
- 1A. In this Act, references to “jury list” are references to a list as certified pursuant to section 13(1).”.
- Amendment of section 2 of principal Act.
- 3.** Section 2 of the principal Act is amended by deleting subsection (4).
- Amendment of section 6 of principal Act.
- 4.** Section 6 of the principal Act is amended—
- (a) in subsection (1), by inserting immediately after the word “Judge,”, wherever it appears, the words “Registrar of the Supreme Court,” in each case; and
- (b) by renumbering subsection (2) as subsection (3) and inserting next after subsection (1) the following as subsection (2)—
- “ (2) Any person who knowingly submits false information in relation to any of the matters referred to in subsection (1), commits an offence and shall be liable on summary conviction in a Resident Magistrate’s Court to a fine not exceeding one hundred thousand dollars or, in default of payment thereof, to a term of imprisonment not exceeding three months.”.
- Repeal and replacement of section 7 of principal Act.
- 5.** The principal Act is amended by repealing section 7 and substituting therefor the following—
- “Making up of jury lists.
- 7.—(1) At such intervals as the Minister may, by order, prescribe, the Director of Elections shall prepare and forward to the Registrar of the Supreme Court a list containing the names in alphabetical order of persons whose names appear on the current official list of electors for elections to the House of Representatives, excluding persons who appear to the Director of Elections to be not qualified for

or exempt from jury service pursuant to section 2, and the list so forwarded shall contain the particulars required by or pursuant to this Act in respect of each such person.

(2) At such intervals as the Minister may, by order, prescribe, the Commissioner General of Tax Administration Jamaica (hereinafter referred to as the "Commissioner General") shall prepare and forward to the Registrar of the Supreme Court a list containing the names in alphabetical order of persons who are registered under section 17D of the *Revenue Administration Act*, excluding persons who appear to the Commissioner General to be not qualified for or exempt from jury service pursuant to section 2, and the list so forwarded shall contain the particulars required by or pursuant to this Act in respect of each such person.

(3) The lists generated under subsections (1) and (2), shall be combined by the Registrar of the Supreme Court by electronic or other means, and such combined list shall be referred to as the master list.

(4) The Registrar of the Supreme Court shall forward to the Resident Magistrate for each parish and the Chief Officer of Police for each parish, the master list referred to in subsection (3) and a subset list comprising the names of the persons in the master list who are resident in that parish, and that subset list shall be the list from which the jury list for the parish is to be settled in accordance with this Act."

6. Section 9 of the principal Act is amended—

- (a) in subsection (2) by deleting the words "on the third Thursday in May in each prescribed year" and substituting therefor the words "at such intervals as the Minister may by order prescribe"; and

Amendment of
section 9 of
principal Act.

(b) by deleting subsection (3) and substituting therefor the following—

“ (3) The Chief Officer of Police for each parish shall attend the Special Petty Session and—

(a) verify and correct, where required, the particulars in the list as provided by the Registrar of the Supreme Court under section 7(4); and

(b) answer upon oath any questions concerning those particulars as may be put to him by the Justices.”.

Repeal and replacement of section 11 of principal Act.

7. The principal Act is amended by repealing section 11 and substituting therefor the following—

“Allowance of list and notification thereof.

11. The list, after such omissions, additions and corrections have been made, shall be allowed by the Justices present, or two of them, who shall sign the same with their allowance thereof, and deliver the same to the Chief Officer of Police; and such officer shall, on or before such date and at such time as may be prescribed, cause a copy thereof to be displayed in a conspicuous place in each Court House and Police Station within his parish, having first subjoined to every such copy a notice stating that all objections to the list will be heard by the Justices at the Court House at the head station of the parish on such date and at such time as may be prescribed, to the end that notice may be given of persons qualified, who are omitted, or of persons inserted, who ought to be omitted from such list.”.

Amendment of section 12 of principal Act.

8. Section 12(1) of the principal Act is amended by deleting the words “on the third Thursday in August at ten o’clock in the forenoon in each prescribed year” and substituting therefor the words “on such date and at such time as may be prescribed”.

9. The principal Act is amended by repealing section 13 and substituting therefor the following—

Repeal and replacement of section 13 of principal Act.

“Final settlement and transmission of jury list to Supreme Court.

13.—(1) Where the list has been settled, the Justices shall certify that the list is to the best of their knowledge and belief, a true and proper list, and their decision as to the qualifications of the persons in that list is final.

(2) The list referred to in subsection (1), to be known in this Act as the “jury list”, shall be forwarded to the Registrar of the Supreme Court, the Clerk of the Court of the parish to which the list relates and the Chief Officer of Police for the parish.”.

10. Section 14 of the principal Act is amended by—

Amendment of section 14 of principal Act.

- (a) deleting the words “certified copy of the list” and substituting therefor the words “jury list”; and
- (b) deleting the words “for the ensuing year, and for each year thereafter”.

11. Section 19 of the principal Act is amended in subsection (2) by deleting paragraph (b) and substituting therefor the following—

Amendment of section 19 of principal Act.

- “ (b) by delivering it at the last or usual place of abode or place of business of the person being summoned, to a person apparently over the age of sixteen years;”.

12. The principal Act is amended by inserting next after section 19 the following as sections 19A, 19B, 19C, 19D and 19E—

Insertion of new sections 19A, 19B, 19C, 19D and 19E in principal Act.

“Employee entitled to serve on jury without any loss of remuneration..

19A. Where an employee has been summoned to jury service, the employee shall be entitled to time away from his place of employment to serve on a jury, without any loss of remuneration or other benefit or advantage, to which the employee is entitled.

Employee's
duty to inform
employer of
receipt of
summons.

19B. Where an employee has been summoned to jury service, the employee shall so inform his employer to that effect, as soon as is reasonably practicable.

Employer's
duty to
inform
employee of
receipt of
summons,
etc.

19C. Where an employer receives a summons under section 19 on behalf of an employee, the employer shall inform the employee as soon as is reasonably practicable that the employee has been served a summons for jury service.

Employer shall
not punish an
employee who
is summoned
for jury
service.

19D.—(1) Where an employee is served a summons under section 19, the employee's employer shall not—

- (a) refuse to release an employee for jury service pursuant to the summons; or
- (b) do any of the following in connection with the employee providing jury service pursuant to the summons—
 - (i) deprive the employee of remuneration or other benefits;
 - (ii) dismiss the employee or threaten the employee with dismissal; or
 - (iii) take any other punitive action against the employee.

(2) Where an employer who contravenes subsection (1), the employee adversely affected by the contravention may apply to the Court, or to the Industrial Disputes Tribunal, for relief under this section.

(3) Where the Court, or the Industrial Disputes Tribunal, as the case may be, determines that an employer has contravened subsection (1),

the Court or the Industrial Disputes Tribunal, may order—

- (a) the reimbursement of lost wages and benefits, as applicable; and
- (b) the reinstatement of the employees, where the employee has been dismissed by the employer, due to that employee being summoned for jury service or serving as a juror, subject to section 12(5)(c)(iv) of the *Labour Relations and Industrial Disputes Act*.

Person who attends Court for jury service may apply for certificate recording attendance.

19E.—(1) Any person attending Court pursuant to a summons under section 19 may, whether or not the person serves as a juror, apply to the Court for a certificate recording person's attendance at Court.

(2) The Registrar of the Supreme Court shall issue the certificate referred to in subsection (1) (which shall be in the prescribed form) as evidence of the person's attendance at Court.

(3) The certificate referred to in subsection (1) shall—

(a) state—

- (i) the days on which the person attended Court (including, where applicable, the days on which the person served as a juror); and
 - (ii) where applicable, the name of the Court and the Judge before whom the case was tried; and
- (b) be signed by the Registrar of the Supreme Court.”

Amendment of
section 31 of
principal Act.

13. Section 31 of the principal Act is amended—

(a) by deleting subsections (1) and (2) and substituting therefor the following—

“ (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.”;

(b) in subsection (4) by—

(i) deleting the words “murder or treason” and substituting therefor the words “treason or murder referred to in subsection (1) (b)”;

(ii) inserting in paragraph (a) immediately after the word “murder” the words “referred to in subsection (1) (b)”;

(iii) deleting paragraph (b);

(iv) deleting from paragraph (c) the words “murder or treason” and substituting therefor the words “treason or murder referred to in subsection 1(b)”.

14. Section 33 of the principal Act is amended—

Amendment of
section 33 of
principal Act.

(a) in subsection (1), by deleting the words “murder or treason” and substituting therefor the words “an offence referred to in section 31(1)”;

(b) by deleting subsection (2) and substituting therefor the following—

“ (2) Every person arraigned before the Circuit Court for an offence, other than an offence referred to in section 31(1), shall be allowed to challenge—

(a) four and no more of the jurors, where the arraignment is for the offence of murder (other than murder referred to in section 31(1)(b)) or for any other offence that attracts a minimum penalty of a term of imprisonment of not less than fifteen years; and

(b) two and no more of the juror, where the arraignment is for any other offence, by way of preemptory challenge and without being subject to assign any cause therefor.”;

(c) in subsection (3), by—

(i) deleting the words “or the Deputy Director of Public Prosecutions”; and

(ii) deleting the words “murder or treason, or five” and substituting therefor the words “an offence referred to in section 31(1), or four and no more in the case of an offence referred to in subsection (2)(a), or two”; and

- (d) by inserting next after subsection (3), the following as subsections (3A)—

“ (3A) Where a juror is being selected, prior to any evidence being led at the trial, to replace another juror who can no longer serve at that trial—

(a) the Director of Public Prosecutions, or any Counsel appearing for the Crown, shall be allowed to use any unused peremptory challenges remaining from the allocation to the prosecution; and

(b) each person arraigned shall be allowed to use any peremptory challenges remaining from that person’s allocation.”.

Amendment of
section 39 of
principal Act.

15. Section 39 of the principal Act is amended—

- (a) by deleting subsection (1) and substituting therefor the following as subsections (1), (1A), (1B) and (1C)—

“ (1) If any person, having been duly summoned to attend on a jury at any sitting of the Courts of this Island—

(a) does not attend in pursuance of the summons;

(b) having been called thrice, does not answer to his name;

(c) after having been called, is present but does not appear;

(d) after his appearance, refuses to serve or to be sworn; or

(e) wilfully withdraws himself from the presence of the Court, without leave of the Court and without reasonable excuse,

the Court may act in accordance with subsection (1A).

(1A) The Court may—

- (a) impose upon the person a fine not exceeding ten thousand dollars; or
- (b) in default of payment of the fine referred to in subsection (1), order the person to perform unpaid work for such number of hours (being in the aggregate not being less than forty nor more than three hundred and sixty hours) as may be specified by the Court in any order made for that purpose.

(1B) Subsections (3), (4), (5) and (6) of section 10 of the *Criminal Justice (Reform) Act* shall apply to an order referred to in subsection (1) as if it were a community service order made under section 10 of that Act.

(1C) Where it appears on information to a Justice of the Peace that the person referred to in subsection (1) has failed to comply with any of the requirements of an order to perform unpaid work made pursuant to subsection (1)—

- (a) the Justice of the Peace may issue a summons requiring the person to appear before a Resident Magistrate for the parish in which that order was made, at a time specified in the summons; and
- (b) the Resident Magistrate shall, upon proof to his satisfaction that the person has failed, without reasonable excuse, to comply with any of the requirements of the order, treat the unpaid fine imposed on him under subsection (1) as being subject to the provisions of section 195 of the *Judicature (Resident Magistrates) Act.*”; and

- (b) in subsection (2), by deleting all the words appearing after the words “a fine not exceeding” and substituting therefor the words “fifty thousand dollars or, in default of payment thereof, to imprisonment for a term not exceeding one month”.

Insertion of
new sections
50A and 50B
in principal
Act.

16. The principal Act is amended by inserting next after section 50 the following as sections 50A and 50B—

“ Minister
may amend
Schedules.

50A. The Minister may, from time to time, by order published in the *Gazette*, amend any of the Schedules to this Act.

Minister may
amend
monetary
penalties.

50B. The Minister may, by order subject to affirmative resolution, amend the monetary penalties specified in this Act.”.

Amendment
of section 52
of principal
Act.

17. Section 52 of the principal Act is amended by renumbering paragraph (b) as paragraph (c) and inserting next after paragraph (a) the following as paragraph (b)—

“(b) the manner of forwarding any list required for the purposes of this Act, whether electronically or otherwise;”.

Insertion of
new section 53
in principal
Act.

18. The principal Act is amended by inserting next after section 52 the following as section 53—

“Savings for
lists prior to
Jury
(Amend-
ment) Act,
2015.

53.—(1) Nothing in this Act as amended by the Jury (Amendment) Act, 2015 shall affect the validity of any list required under this Act, that was in existence immediately prior to the coming into operation of that Act.

(2) The Jury (Amendment) Act, 2015 shall not apply to any trial which had commenced prior to the coming into operation of that Act.”.

19. The *Criminal Justice (Administration) Act* is amended by inserting next after section 11, the following as section 11A—

Amendments
to the
*Criminal
Justice
(Administration)
Act.*

11A.—(1) Subject to subsection (2), as regards an offence otherwise triable by jury, where (prior to the empanelling of the jury) the prosecution and the accused (or each accused, where more than one person is to be tried jointly for the same offence) in writing agree for the offence to be tried by the Judge alone, the trial for the offence shall proceed in that manner.

“ Where offences otherwise triable by jury are triable by Judge alone.

(2) Subsection (1) shall not apply to offences referred to in section 31(1) of the *Jury Act*.”

Passed in the Senate this 16th day of October 2015 with seven (7) amendments.

FLOYD E. MORRIS
President.

Passed in the House of Representatives this 1st day of December, 2015.

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. Valrie A. Curtis
for Clerk to the Houses of Parliament.

