

THE JUDICATURE (FAMILY COURT) ACT

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SCHEDULE

THE JUDICATURE (FAMILY COURT) ACT

[18th December, 1975.]

Acts  
41 of 1975,  
22 of 1978,  
8 of 1982,  
6 of 1987,  
S. 17.

1. This Act may be cited as the Judicature (Family Court) Act. Short title.

2. In this Act—

“the Court” means a Family Court established under this Act; Interpretation.  
22/1978  
S. 2.

“the Corporate Area” means the combined area of the parishes of Kingston and Saint Andrew;

“functions” includes powers and duties;

“Judge” means a Judge of a Family Court;

“law” includes any instrument having the force of law and any unwritten rule of law;

“tribunal” includes any court or other authority.

PART I—*Family Court for Kingston and Saint Andrew*

22/1978  
S. 3.

3.—(1) There shall be established a Court of Record to be called the Family Court, which shall have such jurisdiction and powers as may be conferred upon it by virtue of this Act or any other law. Establishment of Family Court.

(2) The Chief Justice shall cause the Court to be provided with a seal, which shall be judicially noticed, and all process issuing from the Court shall be sealed or stamped with such seal.

(3) References in this Part to “the Court” or “the Family Court” shall be construed as references to the Court established by this section. 22/1978  
S. 4.

(4) The Court may be distinguished from other Family Courts under this Act by the use after the words "Family Court" of the words "Corporate Area Region".

Jurisdiction of the Court.

4.—(1) The Court shall have jurisdiction to try or otherwise deal with offences, causes, or matters, as provided in that behalf in any of the enactments for the time being specified in the Schedule.

Schedule.

(2) The Court shall have all the functions and authorities incident to the jurisdiction conferred upon it by subsection (1).

(3) Without prejudice to anything ordered or otherwise provided under this Act, the jurisdiction of the Court shall extend to the parishes of Kingston and Saint Andrew as if they formed one parish and the provisions of subsection (3) of section 5 shall be construed accordingly.

(4) Subject as otherwise provided by or under this Act, the like process, procedure and practice as relate to the exercise of jurisdiction of a Resident Magistrate's Court, and otherwise to the conduct of its business, shall be observed, in so far as they are applicable (with necessary adaptations), in relation to the exercise of jurisdiction, and otherwise to the conduct of business, of the Family Court and, without prejudice to the generality of the foregoing, the judgements and orders of the Family Court and the attendance of persons before it, whether as accused persons or witnesses or otherwise, may be enforced accordingly.

Judges of the Court.

5.—(1) There shall be two Judges of the Family Court, to whose offices section 112 of the Constitution of Jamaica (which relates to appointment, etc., of judicial officers) shall apply, and each Judge of the Court shall, by virtue of his appointment, be capable of exercising and administering all the jurisdiction and functions of the Court.

(2) Each Judge of the Court shall be a Resident Magistrate or a person qualified to be appointed a Resident Magistrate. 8/1982  
S. 2.

(3) In relation to exercising the jurisdiction of the Court and to the execution of other functions of his office, each Judge shall, without prejudice to anything provided by or under this Act, have *mutatis mutandis* like authority, powers, privileges and immunities as appertain or would, but for this Act, appertain to the offices of Resident Magistrate for the parish of Kingston and of Resident Magistrate for the parish of Saint Andrew, whether as provided in subsection (2) of section 4 of the Judicature (Resident Magistrates) Act or otherwise.

(4) A Judge of the Court may, subject to the approval of the Chief Justice, sit at any time and at any place in the Corporate Area for the trial of any matter whatsoever (whether civil or criminal) within the jurisdiction of the Resident Magistrate's Court for the parish of Kingston or the Resident Magistrate's Court for the parish of Saint Andrew.

(5) The Minister may from time to time, upon the recommendation of the Chief Justice, by order amend subsection (1) so as to increase the number of Judges, and any order under the foregoing provisions of this section shall be subject to negative resolution of the House of Representatives.

(6) The Court shall be deemed to be duly constituted notwithstanding any vacancy in the office of any Judge thereof.

6.—(1) Subject to subsection (5) of section 71 of the Child Care and Protection Act, and without prejudice to any rules of court, the Court may in the Corporate Area, hold its sittings in Kingston, and at such other places (if any) as the Minister Sittings.

may by order, from time to time appoint, and sittings under this section may be held at the same time, or at different times, or in different places.

(2) Without prejudice to the generality of anything provided by subsection (3) of section 4, a Judge may subject as provided in subsection (1), sit at any time and at any place in the Corporate Area for the purpose of exercising any of his authority or functions as respects either the parish of Kingston or the parish of Saint Andrew.

22/1978  
S. 5.

PART II—*Family Courts outside the  
Corporate Area*

Establishment  
of Regional  
Family  
Courts.

**6A.**—(1) Courts of Record, to be called Family Courts, shall be established in such regions outside the Corporate Area as the Minister may, from time to time, by order designate, and such Courts shall have such jurisdiction and powers as may be conferred upon them by virtue of this Act or any other law.

(2) The Chief Justice shall cause each such Court to be provided with a seal, which shall be judicially noticed, and all process issuing from such Court shall be sealed or stamped with such seal.

(3) Any order made under subsection (1) may contain such consequential or ancillary provisions as the Minister thinks necessary or desirable and, without prejudice to the generality of the foregoing, may indicate—

- (a) the manner in which the name of a Family Court shall be adapted to distinguish it from other Family Courts established under this Act; and
- (b) the date as from which the provisions of section 11 shall apply in relation to that Court.

Jurisdiction.

**6B.**—(1) The provisions of subsections (1), (2) and (4) of section 4 shall apply *mutatis mutandis* to each Court

established under section 6A in respect of the jurisdiction of such Court.

(2) Without prejudice to anything ordered or otherwise provided under this Act, the geographical jurisdiction of each such Court shall extend to such parish or parishes as may be comprised in a region designated by the Minister in relation to that Court under the provisions of section 6A.

6C.—(1) There shall be two Judges of each Court established pursuant to this Part, to whose offices section 112 of the Constitution of Jamaica (which relates to the appointment, etc., of judicial officers) shall apply, and each Judge of each such Court shall, by virtue of his appointment, be capable of exercising and administering the jurisdiction and functions of the Court to which his appointment relates or which may thereafter be assigned to him.

Judges of  
the Courts.

(2) Each Judge aforesaid shall be a Resident Magistrate or a person qualified to be appointed a Resident Magistrate.

8/1982  
S. 3.

(3) In relation to exercising the jurisdiction of the Court and to the execution of other functions of his office, each Judge aforesaid shall, without prejudice to anything provided by or under this Act, have *mutatis mutandis* like authority, powers, privileges and immunities as appertain or would, but for this Act, appertain to the office of Resident Magistrate for each of the parishes in the region to which he is assigned, whether as provided in subsection (2) of section 4 of the Judicature (Resident Magistrates) Act or otherwise.

(4) A Judge of a Court established as aforesaid may, subject to the approval of the Chief Justice, sit at any time and at any place in the region to which he is assigned for the trial of any matter whatsoever (whether civil or

criminal) within the jurisdiction of the Resident Magistrate's Court for each of the parishes in the aforesaid region.

(5) The Minister may from time to time, upon the recommendation of the Chief Justice, by order amend subsection (1) so as to vary the number of Judges, and any order under the foregoing provisions of this section shall be subject to negative resolution of the House of Representatives.

(6) A Court established as aforesaid shall be deemed to be duly constituted notwithstanding any vacancy in the office of any Judge thereof.

Sittings.

**6D.** Subject to subsection (5) of section 71 of the Child Care and Protection Act, and without prejudice to any rules of court, a Court established pursuant to section 6A in any region may, in that region, hold its sittings at such places as the Minister may by order from time to time appoint, and sittings under this section may be held at the same time, or at different times, or in different places.

### PART III—*General*

22/1978  
S. 6.  
Officers of  
the Court.  
22/1978  
S. 7(a).

7.—(1) There shall be assigned to a Family Court such clerks and other officers and employees as may be requisite for the carrying out of the business of the Court.

22/1978  
S. 7(b).

(2) Subject as otherwise provided by or under this Act, any person assigned to a Family Court, whether as a Clerk, Deputy Clerk or Assistant Clerk of the Court or otherwise, under subsection (1) or subsection (3) to any office corresponding to an office in a Resident Magistrate's Court, shall, for purposes of the execution of his functions, have the like powers, privileges and immunities (if any) as appertain to such an office in a Resident Magistrate's Court.

8/1982  
S. 4(a).

(3) A person assigned to a Family Court pursuant to subsection (1) as Clerk or Deputy Clerk of that Court shall

be a person who, under the Judicature (Resident Magistrates) Act, is qualified to be appointed Clerk of the Courts or Deputy Clerk of the Courts, as the case may be, of a Resident Magistrate's Court so, however, that if a person so assigned shall be incapacitated from illness, or absent, or unable to attend to his duties, or if a vacancy in the office of Clerk or Deputy Clerk of a Family Court shall occur, the Governor-General may assign any fit and proper person, though such person may not be qualified under the Judicature (Resident Magistrates) Act to be appointed Clerk or Deputy Clerk of the Courts, to act temporarily as Clerk or Deputy Clerk of a Family Court, as the case may be; and any person so assigned, shall have for the time being, all the powers, privileges and immunities (if any) as appertain to such an office in a Resident Magistrate's Court.

7A. Where a Judge of a Family Court shall be incapacitated from illness, or absent, or unable to attend to his duties, or where a vacancy exists in the office of Judge of the Family Court, the Governor-General may assign any person who possesses any of the qualifications set out in paragraph (a) of section 12 of the Judicature (Resident Magistrates) Act, though such person may not possess any of the qualifications set out in paragraph (b) of section 12 of the said Act, to act temporarily as Judge of a Family Court; and any person so assigned, shall have for the time being, all the powers, privileges and immunities (if any) as appertain to such an office in a Resident Magistrate's Court.

Appoint-  
ment of  
Judge to  
act tem-  
porarily.

8.—(1) The Minister may by order—

- (a) amend the Schedule;
- (b) for the purposes of giving effect to any such amendment or vesting in the Court or a Judge thereof the whole or any part of the jurisdiction of another tribunal, adapt or modify any enactment to which reference is included in the Schedule;

Power to  
amend  
Schedule  
22/1978  
S. 8.

[The inclusion of this page is authorized by L.N. 37/1988]

(c) provide, whether in like manner as authorized by paragraph (b) or otherwise, for matters appearing to the Minister to be incidental or supplemental to, or consequential upon, the carrying out of any of the said purposes.

(2) Any power exercisable by order as mentioned in this section may be exercised—

(a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases;

(b) so as to make, with regard to the cases in relation to which it is exercised—

(i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise);

(ii) the same provision for all cases in relation to which the power is exercised or different provision for different cases or classes of case or different provision as respects the same case or class of case for different purposes;

(iii) any such provision either unconditionally or subject to any specified condition.

(3) Any order made under this section shall be subject to affirmative resolution.

Rules of  
Court.  
22/1978  
S. 9.  
6/1987  
S. 17.

9.—(1) The Rules Committee constituted under section 135 of the Judicature (Resident Magistrates) Act shall, in relation to the Courts under this Act, have like powers and duties, *mutatis mutandis*, as it has in relation to the Resident Magistrates' Courts, so however, that, when exercising powers pursuant to this subsection, the Rules Committee shall consult with such Judges as may be designated for the purpose by the Minister.

(2) Without prejudice to the generality of the provisions of subsection (4) of section 4, where no other provision is expressly made by this Act or by rules pursuant to this section, the procedure and practice for the time being prescribed by rules for Resident Magistrates' Courts shall apply to a Family Court, so far as such rules may be appropriate and with such variations as the circumstances may require.

10. Decisions given by Judges of a Family Court in proceedings of any kind shall be subject to appeal, unless otherwise provided under section 8, in like manner and to the like extent (if any) as decisions given by Resident Magistrates in proceedings of that kind, and any laws relating to appeals from such decisions as last aforesaid shall *mutatis mutandis* extend accordingly to appeals under the foregoing provisions of this section, the generality of which shall not be prejudiced by virtue of anything provided in any such law pursuant to any amendment under section 12.

Appeals.  
22/1978  
S. 10.

11.—(1) Any case involving proceedings in respect of any offence, cause, or matter, and which, immediately before the prescribed date, is pending before any prescribed tribunal, shall, subject to subsection (2), be continued thereafter in the Court.

Transitional.

(2) Where a prescribed tribunal has, before the prescribed date, begun but not concluded the hearing of any proceeding (in this section referred to as the "original hearing") the hearing thereof may, on or after that date, be resumed and completed before the prescribed tribunal, which shall, notwithstanding anything to the contrary, be empowered to exercise its functions for the purposes of this subsection, and any appeal, or further proceedings, in that behalf may be taken as if this Act had not been passed :

Provided that the prescribed tribunal, on the application of any party to the original hearing, may order, on such terms as it thinks just, that the proceedings shall be recommenced in the Court, but no such order shall be made in the case of proceedings for any offence.

(3) Without prejudice to the generality of anything provided by virtue of this Act, where an order has, before the prescribed date, been made by any tribunal vested with jurisdiction to enforce, renew, vary, suspend, revive, cancel or discharge such an order and the jurisdiction so to do vests in the Court or a Judge thereof, the jurisdiction so vesting shall be exercisable in the Court with respect to the order made as aforesaid, notwithstanding that it was made by such tribunal.

(4) In the foregoing provisions of this section—

“prescribed date” means—

(a) subject to paragraph (b)—

(i) in relation to the Family Court—Corporate Area Region, the 18th of December, 1975; and

(ii) in relation to a Family Court established pursuant to section 6A, such date as may be appointed by the Minister under that section as being the date as from which the provisions of this section shall apply in relation to that Court;

(b) in relation to a prescribed tribunal having any such jurisdiction as shall vest in the Court or a Judge thereof by virtue of any order under section 8, the date on which such order takes effect in that behalf;

22/1978  
S. 11.

“prescribed tribunal”, in relation to any case or proceeding, means any tribunal having thereover pursuant to the provisions of any enactment, immediately before the prescribed date, any such jurisdiction as shall vest in the Court or a Judge thereof pursuant to the variation of those provisions by virtue of section 12 or of any order under section 8.

(5) Where a tribunal has had cognizance of any case or proceeding, and any jurisdiction with regard thereto which was vested in the tribunal vests in the Court or a Judge thereof pursuant to this Act, the person employed in the capacity of clerk (however designated) to such tribunal shall cause to be delivered into the custody of the Court all such documents, exhibits or other things kept by the tribunal in respect of the said case or proceeding as may be relevant to the exercise of such jurisdiction.

*JUDICATURE (FAMILY COURT)*

## SCHEDULE

(Sections 4 and 8)

The Children (Adoption of) Act

The Children (Guardianship and Custody) Act

The Education Act

The Child Care and Protection Act

The Maintenance Act

The Married Women's Property Act

The Maintenance Orders (Facilities for Enforcement) Act

L.N.  
377A/76