

**A BILL
ENTITLED**

AN ACT to Amend the Coroners Act.

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 and construction.

1. This Act may be cited as the Coroners (Amendment) Act, 2008, and shall be read and construed as one with the Coroners Act (hereinafter referred to as the "principal Act") and all amendments thereto.

Amendment of section 3 of principal Act.

2. Section 3 of the principal Act is amended by inserting the following definitions in the appropriate alphabetical sequence -

"agent of the State" means -

(a) a person who is a member of -

(i) the Jamaica Constabulary Force;

(ii) the Jamaica Defence Force,
except when acting in time of war;

(iii) the Island Special Constabulary Force; and

(iv) the Rural Police;

(b) a person appointed as a parish Special Constable pursuant to the Constables (Special) Act;

(c) a correctional officer;

(d) an officer within the meaning of section 2 of the Customs Act; and

(e) such other public officer, as the Minister may by order specify, being a person upon

whom is conferred any of the powers,
 authority and privileges as are conferred
 by law on a member of the Jamaica
 Constabulary Force;

"the appropriate Coroner" means -

- (a) the Office of the Special Coroner, in any case where there is reasonable cause to suspect that death occurred as a result of the act or omission of an agent of the State; or
- (b) subject to section 5B, in any other case, the Coroner having jurisdiction for the relevant parish pursuant to section 4,

and references, in any other enactment, to a Coroner shall be construed to mean the appropriate Coroner;

"the Office" means the Office of the Special Coroner established under section 5A;".

Amendment of section 4 of principal Act.

3. Section 4 of the principal Act is amended in subsections (1) and (2) by deleting the word "The" wherever it appears and substituting therefor, in each case, the words "Subject to sections 5A and 5B, the".

Insertion of new sections 5A and 5B in principal Act.

4. The principal Act is amended by renumbering section 5A as section 5C and inserting next after section 5 the following heading and sections -

"

SPECIAL CORONER

Establishment of Office of the Special Coroner.

5A. - (1) There is hereby established a department of Government to be called the Office of the Special Coroner.

(2) The Office shall be

constituted by the following persons appointed by the Governor-General, acting on the advice of the Judicial Service Commission -

- (a) the Special Coroner, who shall be in charge of the administration and operations of the Office; and
- (b) such number of Assistant Special Coroners as may be necessary for the efficient administration and operation of the Office.

(3) A person shall not be qualified for appointment under subsection (2) unless that person is a Resident Magistrate and possesses the qualifications for appointment as a Senior Resident Magistrate.

(4) The Special Coroner may employ such staff as are necessary for the efficient administration and operation of the Office.

Jurisdiction and functions of Special Coroner.

5B. - (1) The Office shall exercise the jurisdiction and functions of Coroner in respect of any death where there is reasonable cause to suspect that the death occurred as a result of the act or omission of an agent of the State.

(2) Nothing in subsection (1) shall be construed as prohibiting the

Coroner for a parish from exercising jurisdiction in relation to a death within the parish of such Coroner, in the circumstances mentioned in subsection (1), in any case where jurisdiction has neither been assumed by, nor transferred to, the Special Coroner."

Amendment of section 5C of principal Act as renumbered.

4. Section 5C of the principal Act as renumbered is amended by inserting in paragraph (b) immediately after the word "Coroner" the words "and the Office".

Amendment of section 6 of principal Act.

6. Section 6 of the principal Act is amended -

(a) in subsection (1), by deleting the word "Where" and substituting therefor the words "Subject to subsection (1A), where";

(b) by inserting next after the subsection (1) the following as subsection (1A) -

" (1A) Where a Coroner, Justice of the Peace or designated police officer receives information described in subsection (1) as regards any dead body and there is reasonable cause to suspect that death occurred as a result of the act or omission of an agent of the State, the Coroner or Justice of the Peace (as the case may be) shall forthwith notify the Office, and the Office may direct any duly qualified medical practitioner to make a *post mortem* examination of the body."; and

(c) in subsection (2) by deleting the words "A

Coroner or" and substituting therefor the words "The appropriate Coroner or a".

Repeal and replacement of section 12 of principal Act.

7. Section 12 of the principal Act is repealed and the following substituted therefor -

"Transfer of jurisdiction to appropriate Coroner.

12. - (1) Notwithstanding anything to the contrary, where any Coroner is satisfied, upon receipt of the reports referred to in section 11 in relation to any body or part thereof lying within the parish for which he is Coroner, that -

(a) the body or part thereof is the body of a person the cause of whose death arose in some other parish, he may certify accordingly to the Coroner for such parish; or

(b) there are reasonable grounds to suspect that the death occurred as a result of the act or omission of an agent of the State, he may certify accordingly to the Office.

(2) Upon receipt of any certificate under -

(a) subsection (1)(a), the receiving Coroner shall have in relation to the body or part thereof the subject of such certificate

the like jurisdiction as if
 the body or part thereof
 had at all times lain
 within the parish for which
 he is the Coroner; or

- (b) subsection (1)(b), the
 Office shall assume juris-
 diction over the case,

and the jurisdiction of the certifying
 Coroner in relation to the body or
 part thereof shall cease and deter-
 mine.

(3) Notwithstanding anything
 to the contrary, where the Office is
 satisfied, upon receipt of the reports
 referred to in section 11 in relation
 to any death, that there is no reason-
 able cause to suspect that the death
 occurred as a result of the act or
 omission of an agent of the State -

- (a) the Office may certify
 accordingly to the Coroner
 for the relevant parish;
 and

- (b) upon receipt of such
 certification, the Coroner
 for the relevant parish
 shall assume jurisdiction
 over the case, and the
 jurisdiction of the Office
 with respect thereto shall
 cease and determine.".

Repeal and
replac-
ment of
section
17 of
principal
Act.

8. Section 17 of the principal Act is repealed and the following substituted therefor -

"Procedure
where body
destroyed or
irrecover-
able.

17. - (1) Subsection (2) shall apply in any case where the appropriate Coroner has reasonable cause to suspect that a death has occurred in such circumstances that -

(a) an inquest ought to be held; and

(b) owing to the destruction of the body by fire, or to the fact that the body is lying in a place from which it cannot be recovered, an inquest cannot be held except by virtue of this section.

(2) The appropriate Coroner may report the facts to the Minister who may, if he considers it desirable to do so, direct an inquest to be held touching the death, and an inquest shall be held accordingly by the appropriate Coroner or such other Coroner as the Minister may direct, and the law relating to Coroners and Coroners' inquests shall apply with such modifications as may be necessary in consequence of the inquest being

held by virtue of the provisions
of this section.".

Amendment
of other
provisions
of principal
Act.

9. The provisions of the principal Act specified in
the first column of the Schedule are amended in the
manner specified in relation thereto in the second
column of the Schedule.

Schedule.

SCHEDULE

(Section 9)

| Provisions | Amendments |
|-----------------------|---|
| — | — |
| Section 7 | In paragraphs (a) and (b) of subsection (2) delete the word "Coroner" wherever it appears and substitute therefor in each case the words "appropriate Coroner". |
| Section 7A | Delete the word "Coroner" wherever it appears in the section and substitute therefor in each case the words "appropriate Coroner". |
| Section 8 | Delete the word "Coroner" and substitute therefor the words "appropriate Coroner". |
| Section 9 | Delete the word "Coroner" wherever it appears in the section and substitute therefor in each case the words "appropriate Coroner". |
| Section 10 | Delete the word "Coroner" wherever it appears and substitute therefor in each case the words "appropriate Coroner". |
| Sections 11 and 13 | 1. In the marginal note, insert the word "Appropriate" immediately before the word "Coroner". 2. In subsections (1) and (2), delete the word "Coroner" wherever it appears and substitute therefor in each case the words "appropriate Coroner". |
| Section 14 | Delete the word "Coroner" wherever it appears in the section and substitute therefor in each case the words "appropriate Coroner". |
| Section 15 | Delete the word "Coroner" wherever it appears and substitute therefor in each case the words "appropriate Coroner". |
| Section 16 | 1. In the marginal note, insert the word "appropriate" immediately before the word "Coroner". 2. In subsection (1), delete the words "a Coroner" and substitute therefor the words "the appropriate Coroner". |

3. In subsections (2) and (3), delete the word "Coroner" wherever it appears and substitute therefor in each case the words "appropriate Coroner".

Section 18

1. In the marginal note, insert immediately before the word "Coroner" the word "the Appropriate".

2. Delete the words "the Coroner" wherever it appears in the section and substitute therefor in each case the words "appropriate Coroner".

Section 19

Delete the word "Coroner" wherever it appears in the subsections (1), (2), (3), (7) and (8) and substitute therefor in each case the words "appropriate Coroner".

Section 20

1. In subsection (1), delete the words "a Coroner" and substitute therefor the words "the appropriate Coroner".

2. In subsections (1) and (2), delete the words "the Coroner" and substitute therefor the words "the appropriate Coroner".

3. In subsection (3), delete the words "The Coroner" and substitute therefor the words "The appropriate Coroner".

Section 21

1. In subsection (1), delete the words "a Coroner" wherever they appear and substitute therefor in each case the words "the appropriate Coroner".

2. In subsections (1) and (2), delete the words "said Coroner" wherever they appear and substitute therefor in each case the words "the appropriate Coroner".

3. In subsections (2) and (3), delete the words "the Coroner" wherever they appear and substitute therefor in each case the words "the appropriate Coroner".

Section 22

In the marginal note thereto and paragraphs (a) and (c) of subsection (1), delete the words "the Coroner" wherever they appear and substitute therefor in each case the words "the appropriate Coroner".

Section 22A

1. In subsections (1), (6), (7), (8) and (10), delete the words "the Coroner" wherever they appear and substitute therefor in each case the words "the appropriate Coroner".

2. In subsection (b), delete the words "that Coroner" and substitute therefor the words "the appropriate Coroner".

3. In subsection (9), delete the words "The Coroner" and substitute therefor the words "The appropriate Coroner".

- Section 22B 1. In subsections (1), (2) and (3), delete the words "the Coroner" wherever they appear and substitute therefor in each case the words "the appropriate Coroner".
2. In subsection (2), delete the words "A Coroner" and substitute therefor the words "The appropriate Coroner".
- Section 22C 1. In subsections (1) and (3), delete the words "the Coroner" wherever they appear and substitute therefor in each case the words "the appropriate Coroner".
2. In subsection (3), delete the words "The Coroner" and substitute therefor the words "The appropriate Coroner".
- Section 22D Delete the word "Coroner" wherever it appears in the section and substitute therefor in each case the words "appropriate Coroner".
- Section 23 1. In subsections (1), (2) and (3), delete the words "the Coroner" wherever they appear and substitute therefor in each case the words "the appropriate Coroner".
2. In subsections (4) and (5), delete the words "a Coroner" and substitute therefor in each case the words "the appropriate Coroner".
- Section 23A In subsections (2), (5), (6) and (7), delete the words "the Coroner" wherever they appear and substitute therefor in each case the words "the appropriate Coroner".
- Section 23B In subsection (2), delete the word "Coroner" and substitute therefor the words "appropriate Coroner".
- Section 24 In subsection (2), delete the word "Coroner" and substitute therefor the words "appropriate Coroner".
- Section 25 Delete the word "Coroner" and substitute therefor the words "appropriate Coroner".
- Section 26 Delete the word "Coroner" and substitute therefor the words "person who performs duties as Coroner by virtue of section 4 or 5A".
- Section 28 Delete the word "Coroner" wherever it appears in the section and substitute therefor in each case the words "appropriate Coroner".
- Section 29 1. Delete the words "A Coroner" and substitute therefor the words "Any person

performing duties as Coroner by virtue of section 4 or 5A and who".

2. Delete the words "any Coroner" and substitute therefor the words "any such person".

Schedule.

1. In Form B, delete the words "Resident Magistrate for the parish of _____, and as such Coroner for such parish" and substitute therefor the words "[Resident Magistrate for the parish of _____, and as such Coroner for such parish] [of the Office of the Special Coroner]".

2. In Form C, delete the words "Her Majesty's Coroner for the parish of _____" and substitute therefor the words "[Her Majesty's Coroner for the parish of _____] [Special Coroner] [Assistant Special Coroner]".

3. In Form D, delete the word "Coroner" wherever it appears in the Form and substitute therefor in each case the words "[Coroner] [Office of the Special Coroner]".

4. In Forms E and G, delete the words "Coroner for the parish of _____" and "Coroner" substitute therefor in each case the words "[Coroner for the parish of _____] [Special Coroner] [Assistant Special Coroner]".

5. In Form F, delete the word "Coroner" substitute therefor in each case the words "[Coroner for the parish of _____] [Special] [Assistant Special Coroner]".

MEMORANDUM OF OBJECTS AND REASONS

Under the current provisions of the Coroners Act, the Resident Magistrate for each parish is the *ex officio* Coroner of that parish. Coroners are required to conduct inquests into deaths occurring within their respective jurisdictions in instances where there is reasonable cause to suspect that a person has died either a violent or unnatural death or has died suddenly of unknown causes.

The performance of Coroners throughout Jamaica has been a source of discontent owing to the large backlog of cases and inordinate delays. At present,

only one parish has a full time Coroner who holds inquests on a daily basis.

An important part of the justice reform programme is the determination to reduce the delays in the system in relation to the holding of inquests under the Coroners Act. Of particular concern also is the need for more expeditious resolution of cases where persons die as a result of actions taken by certain agents of the State. In recognition of the need to increase the transparency and accountability of the State and its agents, the Government has decided to provide for the establishment of an Office of the Special Coroner to exercise jurisdiction as Coroner in relation to such deaths. An important aspect of this reform initiative is that the Office will have jurisdiction in all parishes. However this initiative, while conferring jurisdiction on the Coroner's Office, will not reduce the scope of existing jurisdiction conferred on Coroners.

This Bill seeks to amend the Coroners Act in order to give effect to that decision.

Dorothy Lightbourne, Q.C.
Minister of Justice