

TURKS AND CAICOS ISLANDS

**MAGISTRATE’S COURT (AMENDMENT) ORDINANCE
2023**

(Ordinance 3 of 2023)

ARRANGEMENT OF SECTIONS

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**MAGISTRATE’S COURT (AMENDMENT) ORDINANCE
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Assent.....1st March 2023

Publication in Gazette.....3rd March 2023

Commencement..... in accordance with section 1

AN ORDINANCE TO AMEND THE MAGISTRATE’S COURT ORDINANCE.

ENACTED by the Legislature of the Turks and Caicos Islands.

Short title and commencement

1. This Ordinance may be cited as the Magistrate’s Court (Amendment) Ordinance 2023 and shall come into operation on such day as the Governor may appoint by Notice published in the *Gazette*.

Interpretation

2. In this Ordinance the “principal Ordinance” means the Magistrate’s Court Ordinance.

Section 2 amended

3. Section 2 of the principal Ordinance is amended by inserting the following definition in the appropriate alphabetical position—

““Roll” means the Roll of the Justices of the Peace established under section 19J;”.

Sections 12, 13, 14, 15, 15A and 15B repealed

4. The principal Ordinance is amended by repealing sections 12, 13, 14, 15, 15A and 15B and replacing them with a new Part IIA.

Part IIA inserted

5. The principal Ordinance is amended by inserting the following Part immediately after Part II—

“PART IIA

JUSTICES OF THE PEACE

Application for appointment of Justice of the Peace

19A. (1) A person shall submit an application to be appointed as a Justice of the Peace in such form as may be prescribed—

- (a) to the Registrar for an appointment which is not by virtue of office; or
- (b) to the Governor, if the appointment is for a Justice of the Peace by virtue of his office.

(2) An application shall be accompanied by such information as may be prescribed.

Requirements for appointment of Justice of the Peace

19B. A person is eligible to be appointed as a Justice of the Peace if—

- (a) he is resident in the Islands;
- (b) he is of good character;
- (c) he is able to understand the duties and powers of a Justice of the Peace;
- (d) he is sufficiently proficient in speaking, reading and writing English;
- (e) he lives or works in an area or community where there is a need for a justice of the peace; and
- (f) he is not disqualified from appointment under section 19C.

Disqualification for appointment

19C. A person shall not be appointed as a Justice of the Peace if—

- (a) he has in terms of any law in force in any country or in the Islands been adjudged or otherwise declared bankrupt or insolvent and has not been rehabilitated or discharged;
- (b) within a period of ten years immediately preceding the date of his proposed appointment, has been convicted—
 - (i) in the Islands, of a criminal offence; or
 - (ii) outside the Islands, of an offence which if committed in the Islands would have been a criminal offence, and sentenced by a court of competent jurisdiction to imprisonment for six

months or more without the option of a fine, whether that sentence has been suspended or not, and for which he has not received a free pardon;

- (c) within a period of fifteen years immediately preceding the date of his proposed appointment, he has been convicted of the offence of fraud or dishonesty;
- (d) he has been sentenced by a court of competent jurisdiction to a fine of \$500 or more, and the fine has not been paid for a period of three months or more; or
- (e) he has been certified as being mentally ill or disordered.

Appointment of Justice of the Peace

19D. (1) The Governor may, subject to subsection (2) or (5), by warrant under his hand and the public seal, appoint any fit and proper person to be a Justice of the Peace for the Islands, for such period as may be specified in the instrument of appointment.

(2) A person may be appointed as a Justice of the Peace on the recommendation of the Chief Justice if he satisfies the requirements set out in section 19B.

(3) A recommendation by the Chief Justice shall be made after an application is made to the Registrar under section 19A, where the Chief Justice is satisfied that the applicant meets the requirements.

(4) A person may be appointed for a period not exceeding three years and is eligible for reappointment.

(5) Without prejudice to subsection (1), the Governor may appoint any person to be a Justice of the Peace by virtue of office, in favour of the holder for the time being of any public office.

Oath

19E. A person appointed as a Justice of the Peace shall subscribe to the oath set out in sections 9 and 10 of the Oaths Ordinance, in accordance with section 13 thereof, before he takes up office.

Removal of Justice of the Peace

- 19F.** (1) A person may cease to be a Justice of the Peace if—
- (a) he completes a term of office without having been reappointed;
 - (b) he resigns as a Justice of the Peace, by writing to the Chief Justice, and the Governor accepts the resignation;
 - (c) he ceases to qualify as a Justice of the Peace in terms of sections 19B and 19C; or
 - (d) he is removed from office by the Governor upon the recommendation of the Chief Justice.

(2) When a person is removed as a Justice of the Peace under subsection (1), a notice of such removal shall be published by Government Notice.

(3) Upon publication of a notice under subsection (1), a person shall cease to be a Justice of the Peace.

Suspension of appointment of Justice of the Peace

19G. (1) The Governor may suspend the appointment of a Justice of the Peace—

- (a) if he is charged with a serious offence that carries the penalty of imprisonment or an offence that may bring the office of a Justice of the Peace into disrepute, and the appointment may be suspended by the Governor pending the outcome of the proceedings;
- (b) if, without reasonable excuse, he fails to participate in the minimum number of professional development as may be determined and provided by the Chief Justice;
- (c) where it is determined that a Justice of the Peace is unable to discharge the functions of the office due to infirmity of body or mind; or
- (d) for contravention of the code of conduct prescribed in the Regulations.

(2) The suspension of an appointment shall be published by Government Notice.

Reappointment of Justice of the Peace

19H. (1) A Justice of the Peace whose term of appointment has expired may have his appointment extended by the Governor for a further period of three years.

(2) An application for extension of appointment shall be made to the Chief Justice, who may recommend the extension to the Governor.

(3) The Chief Justice may recommend a reappointment, if he is satisfied that—

- (a) there are no unresolved complaints against a Justice of the Peace regarding the performance of his duties or his general behaviour;
- (b) the Justice of the Peace provides two references from his community about his conduct and his work as a Justice of the Peace;
- (c) the Justice of the Peace has attended and participated in a minimum number of professional development programs conducted by the Judicial Education Institute; and
- (d) the Justice of the Peace has not been convicted of any offence, and has no outstanding charges or proceedings in relation to an offence alleged to have been committed by him.

Powers and functions of Justices of the Peace

19I. (1) Every Justice of the Peace shall have the same powers as the Magistrate to receive complaints, sign charges, and to issue warrants for apprehension and commitment for safe custody of persons charged with offences, to issue search warrants, to issue summonses and administer oaths.

(2) Every Justice of the Peace shall have power to preserve the peace, to suppress riots and affrays and to disperse all disorderly and tumultuous assemblies; and for any of these purposes to call in the assistance of any police officer and all Her Majesty's liege subjects, who shall be bound to obey all lawful commands given for any such purpose.

(3) Except in so far as may be expressly provided by the Governor by the terms of the warrant of appointment of a Justice of the Peace in any particular case, no Justice of the Peace shall have power to try and determine any charge or complaint or to hold any preliminary enquiry.

Roll of Justices of the Peace

19J. (1) There shall be a Roll of Justices of the Peace which shall be kept by the Governor's Office.

(2) The following information shall be recorded in the Roll—

- (a) the name of every person appointed as a Justice of the Peace under this Ordinance;
- (b) the date of the appointment and the end of the appointment;
- (c) the island of residence; and
- (d) occupation of the Justice of the Peace, and if appointed *virtute officio* the office by which the person is appointed.

(3) The Governor's office may endorse the roll with an appropriate notation where an appointment—

- (a) lapses by virtue of the Justice of the Peace's residency outside of the Islands for more than twelve months; or
- (c) is suspended or renewed.

(4) The Governor's office shall remove from the roll, the name of any person whose appointment has been revoked under this Ordinance.

(5) The Governor's office shall publish and update quarterly, a list of all current Justices of the Peace in the *Gazette* and a relevant Government website.

Register of Justice of the Peace

19K. (1) In addition the Roll under section 19J, the Registrar shall keep and maintain a Register of Justices of the Peace.

(2) The following information shall be recorded in the Register after receipt of an application—

- (a) the name of the applicant and date of application;
- (b) whether the application is refused or not;
- (c) the reasons for refusal;
- (d) the date a recommendation is made to the Governor by the Chief Justice; and
- (e) the substance of the recommendation.

(3) The following information shall be made in the Register after a justice of the peace is appointed—

- (a) the name of the Justice of the Peace;
- (b) the date of appointment and the end of the appointment period;
- (c) the residential address or business address;
- (d) the island of residence;
- (e) the date of the taking of the oath; and
- (f) information contained in subsection (4), either in a physical record book, electronically, or both.

(4) The Registrar shall assign a number to each Justice of the Peace in the Register, which shall be the identification number.

(5) An identification number assigned to a Justice of the Peace in the Register shall be his official registration number for all relevant purposes, and shall be embossed on the stamp of the Justice of the peace.

(6) The name of a Justice of the Peace whose term has expired shall be crossed out in red ink, or electronically (as the case may be), unless an extension of the term is granted by the Governor.

Notification of changes and events

19L. (1) A Justice of the Peace shall notify the Registrar in writing, of the following changes—

- (a) alteration to name under the Recording of Deeds Ordinance or an equivalent enactment in another jurisdiction; or

(b) change to his residential address or ordinary residence, within thirty days of such change, providing the Registrar with the details of the change.

(2) A Justice of the Peace shall within seven days of any of the following decisions, notify the Registrar in writing of such conviction or judgment—

- (a) conviction of an offence punishable by imprisonment; or

(b) has been adjudged a bankrupt.

(3) Failure to inform the Registrar under this section within the specified time period may result in the immediate suspension of the appointment of the Justice of the Peace and he shall be liable under the provisions of section 19O(2) of this Ordinance should he purport to carry out any duties of a Justice of the Peace.

Supervision

19M. (1) Every Island shall have a Presiding Justice of the Peace who will be appointed as such by the Governor for such period as the Governor shall specify.

(2) A Presiding Justice of the Peace shall supervise the work of Justices of the Peace in their particular island by the inspection of their ledgers from time to time, or by summoning a meeting of the Justices of the Peace from time to time, to discuss issues pertaining to their work.

(3) The Chief Magistrate shall supervise the work of the Justices of the Peace, through the Presiding Justices.

(4) In the performance of this duty, the Chief Magistrate shall meet with the Presiding Justices who shall provide a report of their work in their particular island in the six-month period.

(5) A Justice of the Peace who is unsure of what to do in a particular circumstance may seek advice from the Presiding Justice of the island in which he operates, or from the Registrar.

(6) The Chief Justice shall supervise the work of the Justices of the Peace through the Chief Magistrate who shall present an annual report of the activities of Justices of the Peace throughout the Islands.

(7) In urgent circumstances, the Chief Justice may call for a report in a shorter time.

Confidentiality

19N. (1) A Justice of the Peace shall preserve confidentiality, and keep safe personal commercial and sensitive information acquired by reason of his office, except—

(a) where required by law to do otherwise; or

(b) with the consent of the person from whom the information was obtained or to whom the information relates.

(2) A Justice of the Peace who contravenes the provisions of subsection (1) commits an offence and is liable on summary conviction, to a fine of \$5,000 or to a term of imprisonment of two months.

Offences

19O. (1) A person who falsely represents himself to be a Justice of the Peace or, not being a Justice of the Peace, purports to carry out any functions of a Justice of the Peace commits an offence and is liable

on summary conviction to a fine of \$5,000 or to imprisonment for a term of twelve months, or to both.

(2) A Justice of the Peace who performs any of his functions while his appointment has been suspended or revoked commits an offence and is liable on summary conviction to a fine of \$5,000 or to imprisonment for a term of twelve months, or to both.

Power to make regulations for Justices of the Peace

19P. The Governor, in consultation with the Chief Justice, may make regulations providing for—

- (a) the responsibilities of the Justice of the Peace;
- (b) the orientation and periodic training of Justices of the Peace;
- (c) a code of conduct, guidelines and general directions for the provision of Justice of the Peace services;
- (d) the hearings into complaints made against Justices of the Peace;
- (e) the disciplinary procedure; and
- (f) the procedure for the suspension or removal of a Justice of the Peace.”.

Transitional provisions

6. (1) A person’s appointment as a Justice of the Peace before the commencement of this Ordinance—

- (a) shall continue to be in force and expire at the end of the period of appointment; or
- (b) where there is no expiration date, shall be valid for a period of three years following the date of commencement of this Ordinance, at the end of which, the appointment shall terminate.

(2) A Justice of the Peace entered in the Roll of Supernumerary Justices of the Peace in place immediately before the commencement of this Ordinance —

- (a) shall if his appointment has an expiration date, continue to be appointed as a Justice of the Peace until the end of the period of appointment; or
- (b) where there is no expiration date, continue to be appointed as a Justice of the Peace for a period of three years following the date of commencement of this Ordinance, at the end of which, the appointment shall terminate.

(3) A person whose appointment has expired under subsections (1) and (2) may apply to be appointed as a Justice of the Peace under Part IIA of the Ordinance.

(4) An existing Justice of the Peace shall be subject to all the provisions of this Ordinance.

(5) The name, address and other contact details of an existing Justice of the Peace shall be entered in the Register in accordance with section 19K.

(6) The Registrar shall assign an identification number in terms of section 19K(4) and (5) to an existing Justice of the Peace.

(7) Within twenty-one days of the coming into force of this Ordinance, all existing Justices of the Peace shall provide to the Registrar, information regarding their names, physical addresses, telephone numbers, mobile phone numbers, and email addresses.
