

ABILL

ENTITLED

**AN ACT to Amend the Criminal Justice (Administration) Act and
to provide for consequential matters.**

[]

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. This Act may be cited as the Criminal Justice (Administration) (Amendment) Act, 2017, and shall be read and construed as one with the Criminal Justice (Administration) Act (hereinafter referred to as the principal Act) and all amendments thereto.

Short title
and
construction.

Amendment
of section 22
of principal
Act.

2. Section 22 of the principal Act is amended by deleting subsection (2) and inserting next after subsection (1) the following subsections—

“ (2) Where, in relation to offences triable before a Parish Court (whether summarily, on indictment, at Petty Sessions, or by virtue of any criminal jurisdiction conferred by statute)—

(a) a person is charged with two or more offences which—

- (i) are founded on the same facts;
- (ii) arise out of a single act or series of acts;
- (iii) form part of a series of offences of the same or similar character; or
- (iv) are so connected as to form part of the same transaction; or

(b) a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, and a person is charged with each or any of such offences,

the charges may be tried at the same time, on indictment, unless the Court is of the opinion that there is a substantial risk of injustice if the offences are tried together, or that the administration of justice would be better served if the offences are tried separately.

(3) Where offences are tried together pursuant to subsection (2), any appeal which may lie from the decision of the Parish Court shall be heard by the Court of Appeal.”.

Insertion of
new section
24A in
principal Act.

3. The principal Act is amended by inserting next after section 24 the following section—

“Award of
compensation
to victims.

24A.—(1) Where a person (in this section referred to as “the offender”) is convicted before a court of any criminal offence and the court is satisfied that there is sufficient evidence that another person (in this section referred to as “the victim”) has suffered loss or damage as a result of the commission of the offence, the court may, in addition to any other sentence that

the court may impose upon the offender in respect of the offence, make a restitution order in accordance with this section.

(2) A restitution order shall order the offender to make restitution to the victim by directing the offender—

- (a) in the case of lost or damaged property other than money—
 - (i) to return the property to the victim or to a person designated by the victim; or
 - (ii) to pay an amount equal to the value of the property, where the return of the property is impossible or impracticable;
- (b) where the lost or damaged property is money, to pay to the victim an amount equivalent to the loss sustained by the victim, which amount shall include any interest income which may otherwise have accrued for the period during which the victim was deprived of the money; and
- (c) to compensate, where applicable, for any of the following—
 - (i) the cost of medical and psychological treatment;
 - (ii) the cost of necessary transportation, temporary housing and child care;
 - (iii) lost income;
 - (iv) attorney's fees and legal costs;

- (v) compensation for emotional distress, pain and suffering;
- (vi) any other losses, suffered by the victim, which the court considers applicable.

(3) Subject to subsection (2), restitution may be paid to the victim from any property of the offender, including, as far as possible property forfeited under the provisions of the *Proceeds of Crime Act* in respect of the offence.

(4) A restitution order may be enforced by the victim, or by the prosecution on behalf of the victim, in the same manner as a judgment in a civil action.

(5) Where the victim is deceased, the personal representative of the victim shall be entitled to receive restitution pursuant to the restitution order.

(6) For the purposes of this section “personal representative” means the executor, administrator or heir of a deceased person.”

Consequential
amendments
to *Gun Court
Act* and
*Judicature
(Parish
Courts) Act*.

4.—(1) The *Gun Court Act* is amended in section 5 by inserting next after subsection (4) the following subsection—

“ (5) Where any offence that the Court has the jurisdiction to hear and determine under the provisions of this Act is joined with another offence pursuant to a power of joinder under the *Indictments Act* or the *Criminal Justice (Administration) Act*, and that other offence is triable by jury, the Court may also—

- (a) hear and determine that other offence; or
- (b) if the accused pleads guilty to the offence, accept the plea and sentence the accused accordingly.”

(2) The *Judicature (Parish Courts) Act* is amended, in the proviso to section 275, by inserting immediately after the words “Circuit

Court” wherever they appear the words “, without the holding of committal proceedings or a preliminary examination.”.

MEMORANDUM OF OBJECTS AND REASONS

A decision has been taken to amend the Criminal Justice (Administration) Act in order to—

- (a) facilitate the joinder of offences triable in the Parish Courts (if the criteria set out in section 22 of the Act are met) without regard to whether the offences are triable summarily, on indictment, at Petty Sessions, or by virtue of any jurisdiction conferred by statute; and
- (b) provide generally for courts to be able to order an offender to pay compensation to persons who suffer loss or damage as a result of the commission of the offence by the offender, without prejudice to any potential civil action.

This Bill seeks to give effect to that decision and is a companion to the Bill shortly entitled the *Indictments (Amendment) Act, 2017*.

DELROY CHUCK
Minister of Justice

A BILL

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As introduced by the Honourable Minister of Justice.

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